



OFFICE OF THE DIRECTOR OF PUBLIC
PROSECUTIONS

Guide To **Child** **Friendly Interviews**





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DPP FOREWORD

The Office of the Director of Public Prosecutions (ODPP) is constitutionally mandated to uphold the rule of law, promote public confidence in the administration of justice, and protect the rights of all persons, particularly the most vulnerable in society. Children who come into contact with the criminal justice system—whether as victims, witnesses, or children in conflict with the law—require special protection, care, and sensitivity at every stage of the justice process.

Interviews conducted with children play a critical role in the pursuit of justice. When carried out appropriately, they not only support the collection of reliable and credible evidence, but also safeguard the dignity, safety, and emotional well-being of the child. However, if poorly conducted, interviews can result in re-traumatization, unreliable evidence, and diminished access to justice. It is therefore imperative that all prosecutors and justice sector actors apply child-sensitive, trauma-informed, and rights-based approaches when engaging with children.

This Guide to child interviews has been developed to provide practical, standardized, and context-specific guidance to prosecutors in the conduct of child interviews. It draws from international best practices, Constitutional principles, the Children Act, 2022, and other applicable legal and policy frameworks. The Guide emphasizes careful planning and preparation, appropriate interviewing techniques, the use of intermediaries where necessary, and the responsible application of technology, including video-recorded testimony and live-link proceedings.



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Interviews conducted with children play a critical role in the pursuit of justice. When carried out appropriately, they not only support the collection of reliable and credible evidence, but also safeguard the dignity, safety, and emotional well-being of the child.

The Guide further underscores the importance of inter-agency collaboration, continuous capacity building, and effective monitoring and evaluation to ensure consistent quality of practice across the country. While primarily designed for prosecutors, it may also serve as a useful reference for other child justice actors involved in protecting and promoting the rights of children within the justice system.

I therefore call upon all prosecutors to fully embrace and implement this Guide in the spirit of promoting child-centered justice, accountability, and professionalism. By doing so, we reaffirm our collective commitment to ensuring that every child victim and witness who engages with the criminal justice system is treated with respect, compassion, and fairness, while strengthening the integrity of our prosecutions.

It is my sincere hope that this Guide will contribute significantly to improving the quality of child interviewing practices and advancing access to justice for children in Kenya.



RENSON M. INGONGA, CBS, OGW
DIRECTOR OF THE PUBLIC PROSECUTIONS

ACKNOWLEDGMENTS

The Office of the Director of Public Prosecutions (ODPP) sincerely appreciates all individuals and institutions that contributed to the development of this Guide on Child Friendly Interviews. The formulation of this Guide was made possible through the collective expertise, commitment, and collaboration of prosecutors and technical partners who are dedicated to advancing child-sensitive and trauma-informed justice in Kenya.



Special appreciation is extended to the Lawyers Without Borders (LWOB) for the partnership and support that facilitated the development of the Guide through the provision of technical expertise and financial assistance. We particularly acknowledge Ms. Jessica Ryckman, Ms. Lilian Orieko and Ms. Felicity Gerry.

We also recognize the dedication of the ODPP management under the able stewardship of Ms. Jacinta Nyamosi, OGW, (DDPP) for their direction and personal commitment in guiding the development of this Guide.

We commend the members of the task team led by Ms. Linda Ndambiri (PPC)-Head Children Division, Ms. Violet Kerubo (SADPP), Maryanne Mwangi (SADPP), Miriam Wawira (SAD-HRD), Angela Fuchaka (ADPP), Pauline Muthuri (ADPP), Alex Akula (ADPP) Olive Njuguna (PPC), Betty Rubia (PPC), Grace Musangi (PPC), Elizabeth Ndirangu (PS), Gerry Abala (ICTO) and Ms. Caroline Mtai (Child Justice Expert), Esther Njuguna (Victim Support Services - IJM) for their critical role and unwavering dedication in developing this Guide.

Further, I wish to acknowledge the contribution of our internal and external stakeholders for their invaluable input throughout the process. Their views, critique and contributions have tremendously enriched the content of this Guide.

It is my hope that the adoption and effective implementation of this Guide will positively impact children within the justice system and contribute to the fair, effective, and expeditious dispensation of justice in Kenya, guided by the rule of law.



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SECRETARY PROSECUTIONS SERVICES



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

**GUIDE TO CHILD FRIENDLY
INTERVIEWS**

GLOSSARY

1. Best Interests of the child is as stipulated under Section 8 of the Children Act Cap 141 of the Laws of Kenya.
2. Interviewer refers to a prosecutor who leads the questioning of a child interviewee for purposes of preparing the child for trial and leading their evidence in court.
3. A child victim refers to a person under the age of 18 who has experienced harm or loss due to violence, abuse, neglect, or exploitation. This harm can be physical, emotional, sexual, or a combination thereof, impacting the child's well-being and development.
4. A child witness is a person under 18 years of age who provides information or testifies about a crime in court.
5. Intermediary means a person authorized by a court, on account of their expertise or experience, to give evidence on behalf of a vulnerable witness and may include a parent, relative, psychologist, counsellor, guardian, children's officer or social worker.

CHAPTER

1

INTRODUCTION



CHAPTER 1:

INTRODUCTION

1.1 Background

- 1.1.1 Children may find themselves in the criminal justice system as victims, witnesses or children in conflict with the law. Whenever this happens, it is necessary to conduct an interview with the child for the purpose of obtaining evidence that can be used in court without re-traumatizing the child.
- 1.1.2 While some interviews with children in the justice system have been conducted appropriately, there remains a significant gap in the consistent application of child-sensitive and trauma-informed approaches. Addressing this gap is essential to safeguarding the rights and well-being of children in the criminal justice system while ensuring justice is served.
- 1.1.3 Prosecutors play an important role in managing children in the justice system. They come into contact with child victims and witnesses at the following stages for purposes of conducting an interview:

i. The pre-trial interview

Child victims/witnesses who are able to testify need to be prepared in order to enable them to testify more effectively. Prosecutors conduct pre-trial sessions with the child to help them prepare for testimony in court and to acclimatise them with the court set-up and trial process. A child who is unfamiliar with the trial process may have difficulty testifying in court hence, the need to for the prosecutor to conduct the pre-trial session. In addition, the pre-trial session would help the child victim/witness to refresh their memory.

ii. Adducing evidence in court

The prosecutor leads evidence of the child witness in court in a manner that elicits accurate information from the child without retraumatizing the child. This is crucial in obtaining evidence required to prove the offence.

- 1.1.4 This Guide provides a general framework drawn from international best practices and is meant to ensure that the process of interviewing children in the criminal justice system is effective and efficient while upholding and safeguarding the child's best interest.

NOTE:

Interviewers must take into consideration the uniqueness of each child and tailor the interview to their needs and special circumstances.



1.2. Scope

- 1.2.1 This Guide applies to prosecutors and may be used by other child justice actors.
- 1.2.2 This Guide will help the prosecutor adapt practical, standardized, and context-specific techniques while conducting child interviews. It includes guidance for decision making, room preparation as well as any other consideration for age-appropriate interviewing.

1.3 Objectives of the guide

- 1.3.1 The purpose of this Guide is to ensure that prosecutors are adequately supported in the prosecution of cases involving children. It is intended to give general guidance to Prosecutors on what ought to be done or taken into consideration when interviewing children in the justice system while safeguarding their safety and comfort and minimizing re-traumatization. More specifically, the objectives of the Guide are:
 - i. To bring consistency to the practice of child interviewing.
 - ii. To promote the practice of video recording of a child's interview and preservation of their evidence.
 - iii. To enhance the quality and reliability of evidence adduced from children.
 - iv. Enhance collaboration and coordination between the ODPP and child justice actors.

1.4 Legal framework in interviewing children in the justice system

- 1.4.1 The following are some of the key legal instruments that make provision for child-friendly interviewing in the justice system.
 - i. **The Constitution of Kenya (2010): Article 53 (2)** provides that a child's best interest is of paramount importance in every matter concerning the child.
 - ii. **The Children Act, Cap 141 Laws of Kenya** makes provision for protection of child victims and witnesses by implementing special measures and safeguards in the best interest of the child. The Act requires the state to put in place mechanisms to facilitate appropriate and effective communication with the child and to ensure the child's participation. Some of the special measures to enhance the child's participation includes the use of interpreters and intermediaries.
 - iii. **The Sexual Offences Act, Cap. 63A Laws of Kenya** makes provision for protection and special assistance to witnesses declared vulnerable including child victims and witnesses. These protective measures are meant to protect the child's safety, dignity and to prevent trauma.¹

¹Section 31, Sexual Offences Act CAP 63 of the Laws of Kenya.

- iv. **The Sexual Offences Rules, Legal Notice 101 of 2014** make provision for the efficient disposal of cases while ensuring that vulnerable witnesses are treated in a manner that recognizes their vulnerability and protects their privacy. Additionally, it makes provision for audio-visual recording of the testimony of a child witness when the facilities for making an audio-visual recording are available.²
- v. **Oaths and Statutory Declarations Act, Cap. 15 Laws of Kenya** makes provision for taking of evidence of a child of tender years on oath or otherwise and determination of the child's competence to testify. Voir dire examinations must be conducted in order to confirm whether a child of tender years understands the meaning of an oath or the need to speak the truth.³
- vi. **Victims Protection Act, Cap. 79A Laws of Kenya** provides for the protection of victims of crime; provision of information, compensation and reparation as well as support services for vulnerable victims. The Chief Justice has established rules to enhance access to justice by vulnerable and specialized groups through use of virtual court sessions.⁴
- vii. **The Witness Protection Act, Cap. 79 Laws of Kenya** makes provision for the protection of witnesses, including child witnesses, who face possibility of adverse consequences as a result of giving evidence in the proceedings including any danger, physical or psychological, that may result from the involvement of the child in the proceedings.
- viii. **The Witness Protection Rules, Legal Notice 225 of 2015** makes provision for the use of appropriate measures to facilitate the testimony of protected witnesses. The Rules further make provision for use of audio-visual technology, in particular, video-conferencing and closed-circuit television, video recording evidence-in-chief and interviews and the use of sound media or live-link.⁵
- ix. **The Evidence Act, Cap. 80 Laws of Kenya** outlines the procedure for taking of evidence of witnesses including children in criminal cases and the procedure for admission of electronic evidence.⁶ The Act further makes provision for receiving of oral evidence through teleconferencing and video-conferencing (video link)⁷

²Rules 14 & 16, Sexual Offences Rules of Court, Legal Notice 101 of 2014

³Maripett Loonkomok v Republic [2016] KECA 520 (KLR) also see Patrick Kathurima v Republic [2015] KECA 539 (KLR)

⁴High Court (Practice Rules) enacted in 2022 (vide Gazette Notice No. 189 of 2022)

⁵The Witness Protection Rules, Legal Notice 225 of 2015 Rule 10, 11 & 12

⁶Evidence Act Cap 80 (KEN) Section 65(8) and 106B

⁷Evidence Act Cap 80 (KEN) Section 63A (1)

CHAPTER

2

PLANNING AND
PREPARATION OF
AN INTERVIEW



CHAPTER 2:

PLANNING AND PREPARATION OF AN INTERVIEW

2.1 Introduction

- 2.1.1 Planning and preparation for an interview involves getting ready to talk to a child. Children do not approach communication nor process or understand language in the same way as adults. When preparing for an interview with a child, it is essential to approach the process with utmost sensitivity to the child's needs.
- 2.1.2 Planning for the interview ensures that the interviewer provides necessary conditions for child appropriate interviewing in adherence to the four general guiding principles on child justice. These principles ensure that the child's dignity and best interests are upheld while they meaningfully participate in processes involving them.
- 2.1.3 The four general principles as provided by the United Nations Convention on the Rights of the Child (UNCRC) are:
 - i. Non-discrimination
 - ii. Best interests of the child
 - iii. Survival and development
 - iv. Child participation

2.2 Pre- interview Considerations

During the pre-interview phase, the interviewer considers additional information about the child that will assist in preparing for an interview based on the child's unique circumstances. These include:

2.2.1 Age

- 2.2.1.1 Age and developmental stage are key considerations when interviewing children. The interview should be adapted to suit a child's cognitive and emotional abilities. Age is one of the most significant factors affecting a child's ability to recall and report experiences, as it directly influences memory capacity, language development and perception. For instance, special regard needs to be given when planning for an interview where the child is of tender years.
- 2.2.1.2 Consideration should always be given to the use of an intermediary in the planning process and during interviews with very young children or children with special needs.

2.2.2 Interview Time

2.2.2.1 The interview should not take place when the child is fatigued and /or not in the right mental state and /or stressed. Additionally, the interviewer should consider if the child is under any medication, their normal routine as well as their views.

Signs of fatigue/stress include;

- *Appearing numb, passive or falling silent;*
- *Agreeing, in order to bring questioning to an end;*
- *Answering with a series of 'I don't know' and 'I don't remember' responses;*
- *Other seemingly strange behaviours, e.g. Crying, screaming, tapping arms or legs, pulling at clothes or hair, inappropriate laughter.*
- *Avoiding eye contact*

2.2.3 Interview aids

2.2.3.1 The interviewer should consider the use of interview aids and allow the child to make drawings to enable them give an account of what happened, clarify body parts, demonstrate an abusive act and describe the environment in which an incident took place.

2.2.3.2 Drawings or props can also enable children of tender years to demonstrate an understanding of truth.

However, below are some of the risks of using props:

- i. *Some props (e.g. anatomical dolls or drawings) can result in distortions or inaccuracies.*
- ii. *Teddies, dolls, and doll houses may engender play or fantasy.*
- iii. *Poor use of props and dolls can create confusion or miscommunication.*
- iv. *For children of tender years (three and under), anatomical drawings are not usually appropriate as representational objects.*

2.2.3.3 Additional tools such as picture/communication boards, braille, tactile communication and audio for children abled-differently may be considered.

2.2.4 Availability and cultural issues

- 2.2.4.1 Custom and culture may influence a child's behaviour during the interview. Some customs or beliefs may prevent the child from participating in an interview on certain days such as religious and cultural days.
- 2.2.4.2 The relationship to authority figures in some communities or in certain ethnic groups may be expressed in different ways for instance by not referring to them by their first names or by not correcting or contradicting them.
- 2.2.4.3 The way in which love and affection are demonstrated may vary between ethnic communities. Some cultures also inhibit talking about sexual assault for fear of shaming the family.
- 2.2.4.4 These issues need to be considered when planning the interview and understanding the account given by the child.

2.2.5 Language

- 2.2.5.1 The interview should be conducted in a language a child understands and communicates comfortably. The interviewer should clarify with the child when terms e.g. susu, dudu are used by either asking the child to point at what they mean. Drawings or props may also be used for clarification.
- 2.2.5.2 Where an interpreter or a sign language expert is needed, they should be properly accredited and trained.

2.2.6 Background issues

- 2.2.6.1.1 Background information on the child and their family is critical in preparing for the interview. It will inform the interviewer whether a child has had previous contact with the accused person or any persons who may form part of the interview process.
- 2.2.6.2 Background information may be provided by health care providers, educational professionals, children officers or any other person who may have relevant information regarding the case.
- 2.2.6.3 Inquiries on background issues should be made in a way that minimizes distress or embarrassment to the child and ensures that the family is treated with dignity and respect.
- 2.2.6.4 Where there are reasonable grounds to suspect that the child has suffered or is likely to suffer significant harm, the planning process should include a strategy discussion with the children's department regarding care.

2.2.7 Medical and other related examination

In some circumstances, it may be necessary to have a medical examination or other related examination like psychiatric examination and support prior to the interview. For example, where a child has a cognitive disorder, the interview should be designed to adapt to the needs of the child.

2.2.8 Children Living with learning, physical disabilities and/or mental health issues

- 2.2.8.1 Children living with disabilities, particularly cognitive disabilities, encounter additional barriers when engaging with the criminal justice system, including challenges related to memory, understanding, communication and decision-making. These difficulties are often compounded when a child's developmental age does not align with their physical appearance.
- 2.2.8.2 For example, a child may appear older but function cognitively at the level of a much younger child. Such disparities can result in unrealistic expectations from the interviewer, who may incorrectly assume a level of maturity based solely on physical appearance.
- 2.2.8.3 Children with disabilities may have limited verbal abilities, or struggle to understand abstract legal concepts and timelines, and may require more time to process questions. Interviewers must therefore approach these cases with increased sensitivity and adapt their practices to ensure the child's meaningful participation. This includes:
- i. Using simple, clear language and allowing additional time for interviews and testimony;
 - ii. Breaking questions into smaller, manageable parts; and
 - iii. Regularly checking understanding by asking the child to rephrase information or demonstrate comprehension.
- 2.2.8.4 It is also essential to consult caregivers in advance, as well as professionals familiar with the child's specific needs, such as special educational needs teachers, speech and language therapists, or psychologists.
- 2.2.8.5 Where appropriate, intermediaries or communication aids should be engaged to support effective participation.

2.2.9 Intermediary

- 2.2.9.1 All children are eligible to be considered for an intermediary as a special measure. An intermediary improves the quality of the testimony of a child who may have a challenge in expressing themselves.
- 2.2.9.2 The Constitution of Kenya (2010) at Article 50 (7), provides that victims have a right to an intermediary. The Interviewer may identify an intermediary where it is believed that this would be in the best interests of the child⁸.

⁸Martin Mati Syuki v Republic [2020] KECA 862 (KLR)

- 2.2.9.3 It is vital to remember that:
 - i. The role of intermediaries is limited to assisting the child in communication and understanding.
 - ii. Children officers may be appropriate to support the interview if they have built a rapport with the child.
- 2.2.9.4 It is best practice that parents/guardians of the child should not be present during the interview as they may prompt the child, react inappropriately to what is stated, or the child may be too embarrassed to talk in front of them.
- 2.2.9.5 The views of the child should be considered regarding the choice of intermediary.
- 2.2.9.6 A preparatory meeting involving the lead interviewer and any interpreter or intermediary who will be present during the interview should be held. This meeting serves to:
 - i. Introduce all parties to each other and to clarify their roles and responsibilities.
 - ii. Outline the interview process,
 - iii. Discuss any known details of the case, and
 - iv. Address practical considerations, such as how communication will be managed and how potential difficulties will be handled.

2.2.10 Transport and reception to the interview venue

- 2.2.10.1 The transportation and reception of the child should be considered in advance. Arrangements should be in place to ensure that the child is transported safely and comfortably.
- 2.2.10.2 Upon arrival at the location of the interview the child should be greeted and escorted to the interview room waiting area.
- 2.2.10.3 Appropriate snacks and/or refreshment may be offered for the child's comfort. Sweets and treats should be avoided to ensure that no suggestion of 'inducement' can arise.
- 2.2.10.4 A parent or guardian present with the child should be clearly informed that they will not be present during the interview. The parent or guardian should wait in a comfortable waiting area near the interview room. They should be encouraged to wait in case a break is deemed necessary, and the child wishes to see their parent for comfort.

2.2.11 Trauma

- 2.2.11.1 The development and implementation of victim and witness interview strategies and plans should take a trauma-informed approach, particularly where the child interviewee has been a witness or victim of a traumatic event.
- 2.2.11.2 Drawing from trauma-informed and child-centred practice principles it is important to note that trauma is a subjective and unique experience and no two children will relate their experiences in the same way, even where circumstances are similar or shared.
- 2.2.11.3 The level of detail and clarity in a child's account will vary depending on individual characteristics, interviewer behaviour, family relationships, community influences, and cultural and societal attitudes. These factors collectively shape how a child responds during an interview.
- 2.2.11.4 Trauma impacts the brain, which drives physical, emotional, and behavioural responses. These responses should be understood as normal reactions to overwhelming experiences and may present as cues during interviews.
- 2.2.11.5 Behaviour sometimes observed during child interviews such as (crying, withdrawal, recantation, fragmented recall, silence, heightened fear or anxiety, restlessness, or rapid speech) are adaptive coping responses through which children seek safety, comfort, and control.
- 2.2.11.6 Common trauma symptoms include;
- i. Re-experiencing - when a child feels that they are going through the traumatic event all over again. The effects could be uncontrollable emotions during the interview. An emotionally supportive caregiver or a mental health practitioner can help them calm down and feel safe again.
 - ii. Avoidance – a child purposefully or subconsciously eluding situations, people, and/or places that will trigger memories of the traumatic event. During the interview, their thoughts are unable to distinguish between a safe versus unsafe situation, affecting their testimony. A child may tell you everything apart from what brought them to court.
 - iii. Hypervigilance- a constant state of alert, always being on the lookout for threats to safety. Many times, when in this state, even neutral events can be interpreted as threatening, as the child is programmed to be overly sensitive to danger. A child may consider the new people in the interview as unsafe and refuse to testify unless their caregiver is present.
 - iv. Numbness- inability to feel certain emotions, which can be understood as a form of avoidance. Some children use numbness as a strategy for

blocking painful emotions. A child may look absent as they describe their painful experience, and they withdraw emotionally. They experience not feeling “real” in the world.

- v. Self-Medicating Strategies -Some children are unable to numb themselves effectively and thus, turn to other means of forgetting and blocking out the traumatic memory. Some avoid the pain by engaging in extreme risk-taking or self-destructive behaviour.
- vi. Out-of-Control Emotions- Children may react strongly and irrationally to trivial things because they have been conditioned to interpret events as catastrophic or disastrous, and can be on edge regardless of how relatively minor the event might be. E.g. asked to tell their name and break out into uncontrollable crying. Trauma can make children impulsive in their reactions as they have difficulty regulating their emotional responses.

2.2.11.7 Interviewers should anticipate the psychosocial needs of traumatised children and take appropriate measures to reduce the risk of trauma resurfacing when detailed accounts of the offence are required.

2.2.11.8 Taking a trauma-informed approach in these circumstances includes considering how trauma might affect the emotional wellbeing, behaviour and memory recall of child interviewee by use of age-appropriate questioning and use of support services including mental health practitioners.

2.2.12 Location and the interview room set up

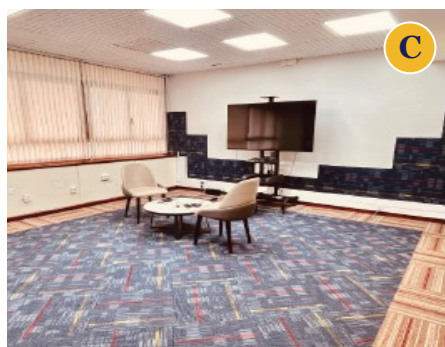
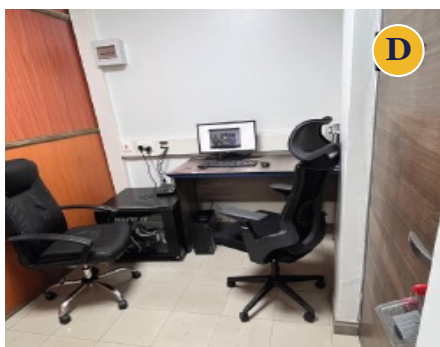
2.2.12.1 Ideally, the location should be a child-friendly space that is comfortable, private or sound proof to allow for audio or video recording of interviews.

2.2.12.2 The room may also be used for virtual connectivity (live link) with courts or other interviewers. The ODPP has provided child friendly interview rooms in various regions within the Republic.

2.2.12.3 A trained interviewer should help children understand the interview room set up. They should practise on the live link, and see screens in place, to be able to express an informed view about the interview room.

2.2.12.4 The environment in which the interview takes place should be welcoming, neutral, and free of distractions or intimidating elements. A child-friendly setting helps reduce anxiety and fosters trust, which is critical for enabling the child to speak openly.

2.2.12.5 The interviewer should consider using child-sized furniture in the interview room, for example, a three-year-old could be properly seated with their feet on the floor, with a table for communication aids/calming play materials.

**A****B****C****D**

ODPP child friendly room at NSSF

As shown above, a child-friendly interview room is designed to resemble a welcoming and familiar environment rather than an intimidating interrogation setting. The room is often furnished with soft chairs, warm lighting, and colourful decorations to create a sense of security.

Walls may be painted in calming colours like blue or yellow, which are known to reduce anxiety. Some rooms include stuffed animals, art materials, or toys to help children relax and express themselves. The setup aims to reduce stress and enhance a child's ability to recall and share information accurately.

2.2.13 Other considerations that may be put into account when preparing for an interview are:

- i. Gender
- ii. Race, culture, ethnicity, religion
- iii. Preferred name/form of address
- iv. Domestic circumstances (Do they live at home? With whom? Are they in boarding school, and if so, where?)
- v. Previous contact with government or referral services
- vi. Current emotional state and range of behaviour's known thus far
- vii. Likely impact on the child's behaviour in recalling traumatic events
- viii. Any significant stressors recently experienced by the child and/or family, e.g., bereavement, illness, job loss, divorce, moving home etc.
- ix. The parental reaction to the allegation
- x. Whether the child is known to have experienced previous abuse or has undergone a previous investigative interview
- xi. What is known about the alleged offence
- xii. Children should not be identified in the media.

The above list is not exhaustive. Planning will need to be done according to the circumstances surrounding the individual child.

2.3 Pre-interview assessment

- 2.3.1 This is an assessment done by the interviewer to determine the specific or special needs of the child. It could include an assessment of whether the child requires the assistance of an intermediary, or interpreter or whether they may need psycho-social assessment or support prior to the interview.
- 2.3.2 A pre-interview assessment should be conducted in a child-friendly space.
- 2.3.3 During this phase, the interviewer should be careful not to ask any questions that directly relate to the offence.

Example to explain a pre- interview assessment

“Today, I want to get to know you a bit better and explain what will happen during the interview”.

In summary, a well-prepared interview involves coordinated planning, a strong understanding of the child's needs, the use of skilled and trained professionals, and the implementation of evidence-based techniques. Prioritizing the child's safety, comfort, and autonomy is key to supporting their ability to give accurate and meaningful evidence.



CHAPTER

3

THE INTERVIEW

CHAPTER 3:

THE INTERVIEW

The primary goal of the interview is to obtain accurate and reliable information from the child while ensuring their well-being and dignity are maintained throughout.

3.1 Overarching principles of conducting the interview

- 3.1.1 Use of child friendly language.
- 3.1.2 Do no harm to the child interviewee; avoid questions, attitudes or comments that are judgmental, insensitive to cultural values, that place a child in danger or expose a child to humiliation, or that reactivate a child's pain and grief from traumatic events.
- 3.1.3 Do not discriminate children because of sex, race, age, religion, status, educational background, or physical abilities.
- 3.1.4 No staging: Do not ask children to tell a story or take an action that is irrelevant to the interview.
- 3.1.5 Explain the purpose of the interview and its intended use.
- 3.1.6 Obtain permission from the child and their guardian for all interviews, videotaping and, if necessary, for photographs. Permission must be obtained in circumstances that ensure that the child and guardian are not coerced in any way.
- 3.1.7 All records must be securely stored and managed in accordance with legal standards to preserve the integrity of the evidence.
- 3.1.8 Ensure that children are comfortable and able to tell their story without outside pressure, including from the interviewer.
- 3.1.9 When discussing body parts, a body map can be useful. It will also be useful to understand the child's own terminology for genitalia.
- 3.1.10 Spontaneous or volunteered statements made by the child must be recorded in writing by the interviewer. These comments may contain crucial information and should be documented accurately, including context and non-verbal cues where relevant.

3.2 Attributes of a good interviewer

- 3.2.1 It is essential that the interviewer be competent in child interviewing techniques. This includes having a solid understanding of child development, trauma-informed practice, and the legal and ethical requirements of evidential interviews.



3.2.2 Some of the attributes of a good interviewer include;

- Good communication skills
- Professionalism
- Patience
- Empathy
- Respect
- Impartiality
- Cultural/ gender sensitive
- Emotional intelligence
- Self-awareness

3.3 Structure of the interview

The structure of the interview should follow these schemes:

Building Rapport	Preliminaries (scene setting). Set ground rules including truth telling. Use brief neutral topics. Useful to demonstrate episodic memory.
Free-narrative	Initiate and support the child with active listening and limited interruptions
Questioning	Additional questions for clarification.
Closing the interview	Summarize (if appropriate). Neutral topics. Check if the child wants to ask any questions or say anything else. Clearly record the end time of the interview.

3.3.1 Step 1: Building Rapport

Understanding and addressing the child's individual needs is central to the interview process. The interviewer should take time to build rapport with the child before any substantive questioning begins. This includes explaining in simple, age-appropriate terms what will happen during the interview, who will be present, and what their role is.

- 3.3.1.1 Introduce the child to the environment and the interviewer. Basic introductions should include; an introduction of everyone in the room, a brief overview of the interview room and estimated duration of the interview.

To Note:

If an interpreter or intermediary is required, they should be introduced to the child prior to the interview and given time to establish rapport.

- 3.3.1.2 If the interview will be audio or video recorded, the interviewer should inform the child and point out the video recorder and microphones. The interviewer should also explain to the child why the interview will be recorded and how the recording will be used and stored.

Good practice example

“The reason why I am recording is so that I can listen to you without having to write everything down and not to miss anything you have said.”

- 3.3.1.3 Establish that the child understands the difference between truth and lie. How this is phrased will vary according to the age of the child. If not fully understood, this may require a further assessment or the support of an intermediary.

Good practice example

Explaining in language familiar to the child, e.g. ask the child to be honest and only speak about things that really happened or things they saw, heard or felt. Encourage the child not to leave anything out, to tell the truth, avoid pretending or making things up.

- 3.3.1.4 The interviewer should encourage the child to:
- i. Seek clarification if something is unclear, encourage the child to say, “I don’t understand”.
 - ii. When the child does not know the answer, to say, “I don’t know”.
- 3.3.1.5 Make it clear that it is okay to correct the interviewer as some children, particularly young children, may feel that they cannot point out a mistake

by someone in authority. It is essential that the interviewer does not present themselves as authoritative but rather reassuring and competent. Establishing this sense of control and safety helps reduce the likelihood of further traumatization and improves the reliability of the information provided.

Good Practice example

Encourage the child to correct the interviewer if they get something wrong. 'Feel free to correct me if I get something wrong.'

If the interviewer says something wrong the child should be encouraged to say "that's wrong" or "that's not right" or similar words.

- 3.3.1.6 Explain that breaks in the interview are allowed and the child should feel comfortable asking for one.
- 3.3.1.7 There should be a brief discussion on "neutral topics" that would have been identified during the planning phase. This is aimed at relaxing the child interviewee. For example, discussions related to the weather, hobbies, school or other topics unrelated to the case.
- 3.3.1.8 Adequate time must be given to allow for rapport building. Age-appropriate play materials may be provided to settle the child and possibly assist communication.

To Note:

Props and body plans should only be discussed if that stage is reached, not at the outset.

3.3.2 Step 2: Free Narrative

- 3.3.2.1 In this phase, the interviewer should enable an uninterrupted free narrative account using an open-ended invitation to talk about the incident(s) in question. Non-specific prompts should be given during this stage

Good Practice example

Examples of non-specific prompts include "is there more you can tell me?"

- 3.3.2.2 The interviewer should be careful not to give any verbal or non-verbal cues that might indicate approval or disapproval of the information given.
- 3.3.2.3 Where a child appears reluctant to talk, it is acceptable for the interviewer to acknowledge that it is difficult and ask if there is anything they can do to make it easier.
- 3.3.2.4 Terms of endearment, verbal reinforcement and physical contact between the interviewer and the child should be avoided.

3.3.3 Step 3: Questioning

- 3.3.3.1 This phase will enable the interviewer to ask questions to get further details in relation to each topic that may not have been recalled during the free narrative stage.
- 3.3.3.2 Suggested practice principles for interviewing children are as follows:
 - i. Listen to the child
 - ii. Do not stop a child who is freely recalling significant events
 - iii. The questions should, as far as possible in the circumstances be open ended rather than leading and multiple.
 - iv. Questions must be focused on the issues at hand.
 - v. Ask no more questions than are necessary
 - vi. The child's well-being should be monitored throughout the interview
 - vii. The interviewer should be calm, controlled, non-expressive, and aware that children may be frightened of emotion, shouting, or unfamiliar stimuli, including noise, colour and strangers.
 - viii. If the child wishes to illustrate their story with a drawing during a recorded interview, then the picture should be explained in the recording and retained as a physical exhibit for court.
- 3.3.3.3 The interviewer should start this segment by explaining to the child that they are going to ask some more questions to seek clarification.
- 3.3.3.4 Having heard the free narrative, the interviewer should have divided it into manageable topics aimed at eliciting further evidence.
- 3.3.3.5 Each topic should be introduced with an open-ended invitation to the child to recall the subject matter of the topic and this should be done at the start of each new topic as the interview progresses.
- 3.3.3.6 If the child gets distressed, the interviewer should move on to a neutral topic or take a break, if necessary, before returning to the topic. This may happen several times during an interview.
- 3.3.3.7 Questioning should commence, ideally, with open-ended questions. Use of open-ended, non-leading questions that encourage the child to recall events in their own words. This should be the predominant form of questioning during the interview.

Good practice example

For example, questions that begin with “tell me” or “describe” (e.g. “you said you were on your way home from school, tell me everything you can remember”) are preferable.

- 3.3.3.8 Specific-closed ended questions that allow for a narrow range of responses should be used to obtain information not elicited in the free narrative stage. They should be used sparingly and only after open-ended questions have failed to elicit the detail required. Grammar should be kept simple, especially with young children.

Examples of specific-closed ended questions would include questions beginning with “Who?” “Where?” or “When?”. Questions beginning with “why” should be avoided as they may cause problems (e.g. “why did he do that” invites an explanation that the child cannot give and may strengthen their belief that they are responsible for what happened.)

- 3.3.3.9 Interviewers should use the same words used by a child during the free narrative stage when seeking explanation or clarification from the child. If it is not possible to get the clarification required at first, the interviewer should move on to avoid the child losing confidence and revisit the same at an appropriate time.
- 3.3.3.10 Multiple or compound questions should be avoided (i.e. one that asks several questions at once). Misunderstandings can easily occur and the interviewer will not necessarily know which question is being answered, or the child may not know which part of the question to answer.

Good practice example

Example of Multiple or compound questions in relation to more than one concept “in relation to two or more suspects, “what did they look like” may confuse a child and the interviewer alike”.

- 3.3.3.11 When posing questions, children, particularly young children, may need time to respond. Interviewers need to balance the need to give space for the child to answer the question by staying silent and noting when the silence might become oppressive.
- 3.3.3.12 Sometimes interviewers will need to check if the child understands the question. This should not be done by simply asking “do you understand” as a child may just answer “yes” even when they do not understand. Instead ask the child to convey back what they understand the interviewer has just said.
- 3.3.3.13 Children often have difficulty with concepts such as dates, times, frequency of events, weight, height, and age estimates. Time and duration might be assisted with questions that refer to home or school routines.

Good practice example

Making references to dates with some other marker can be helpful (e.g. dates with reference to key dates in the child’s life such as holiday festivities, birthdays, start of school; estimates of height, weight, and age with reference to another person known to the child (e.g. a member of the family or the interviewer).

- 3.3.3.14 Beware of negative and passive language in questions because this can reduce clarity and increase the likelihood of confusion and inaccurate responses.
- 3.3.3.15 Be careful about questions in the form of statements because these may not be understood as requiring a response.
- 3.3.3.16 When using drawings, it is important for the child to interpret the drawing in their own words.

3.3.4 Step 4: Closing the Interview

- 3.3.4.1 The child should be thanked for their time and effort (in age-appropriate language) and asked if there is anything else they wish to communicate or questions they want to ask.
- 3.3.4.2 The interviewer should inform the child and their parent/guardian that if there is anything else they want to talk about, then the interviewer can be contacted for a further interview.
- 3.3.4.3 The interview should end with a neutral topic to ensure that the child leaves feeling in a positive frame of mind. This does not mean praising them for their testimony.

Good practice example

Example of neutral topics question “what do you have planned for the rest of the day?”

- 3.3.4.4 The interviewer should conduct an evaluation on the quality of evidence provided during an interview, the need for a further interview or plan for any support that the child may require after the interview is complete.

CHAPTER

4

USE OF TECHNOLOGY IN
CHILD INTERVIEWING



CHAPTER 4:

USE OF TECHNOLOGY IN CHILD INTERVIEWING

4.1 Introduction

- 4.1.1 It is good practice for children to be interviewed as soon as possible after an event and their statements recorded in writing, audio or video. Early recording preserves the quality of the evidence and reduces the number of times the child needs to be interviewed and the number of people interacting with the child. A recording enhances the quantity and quality of information garnered from the witness.
- 4.1.2 Best practice would be for the interview of a child to be captured as a video statement to be received in court as testimony, giving the recording the same legal status as if the child had given direct oral testimony in court.
- 4.1.3 The Evidence Act, Cap. 80 Laws of Kenya provides that a court may receive oral evidence through teleconferencing and videoconferencing.
- 4.1.4 The Witness Protection Act Cap. 79 Laws of Kenya recognizes that the Witness Protection Program may request a court to make “use of video link” to protect those witnesses enrolled in the program while testifying.

4.2 Points to note on use of live link

Below are some of the tips for child interviewing in court or via live link:

- i. Introduce yourself to establish a rapport before questioning starts.
- ii. Be aware of the impact of trauma on communication.
- iii. Adjust your pace to the child’s needs.
- iv. Be prepared to pause during questioning if the child moves out of range of the live link camera.
- v. Be alert to possible miscommunication.
- vi. Plan questions in topics and be clear about changes of topic.
- vii. Ask each question once unless there is a good reason to repeat it.
- viii. Ensure tone and body language are neutral and maintain attention.
- ix. Make sure the content of questions is developmentally appropriate.
- x. Use simple, everyday words, because these are much more likely to be understood.
- xi. Carefully plan questions about intimate touching or sexual acts
- xii. Be clear about places, names, objects, and subjects.

4.3 Points to note during video recording of the interview

- 4.3.1 Where breaks are taken during the recording, the camera should be kept running. There is no need to seal the recording and start afresh. Breaks should be explained and whatever happens during a break should be documented.

- 4.3.2 If the child wishes to draw an event, then the picture should be explained during the recorded interview and retained as a physical exhibit for court;
- 4.3.3 Drawings can be used if the child finds it easier to point to/draw where they were assaulted. Again, these should be explained during the recorded interview and retained as a physical exhibit for court
- 4.3.4 Finally, the interviewer should report the end time of the interview for the benefit of the audio-visual recording.

4.4 Introducing pre-recorded testimony in court as evidence in chief

- 4.4.1 It is prudent for the child to be questioned about their understanding of truth and lies by the interviewer when taking a pre-recorded statement. Prosecutors should ensure that voir dire is conducted by the trial court before presenting the video evidence. This can be done through a video link.
- 4.4.2 The prosecutor should ensure that during disclosure, the trial court is informed that the state will be relying on video recording evidence for the court to make the necessary arrangements and preparation.
- 4.4.3 It is best practice for the trial prosecutor to conduct a pre-trial with the child. This will ensure:
 - i. The prosecutor understands the needs of the child, introduce the child to the parties involved during trial, and adequately prepares for trial.
 - ii. The child is enabled to watch the video recording to refresh their memory before trial.
 - iii. The child witnesses are prepared for cross examination
 - iv. The prosecutor, if need be, may clarify issues that may arise from the presentation of the video evidence.

4.5 Cross examination of a child

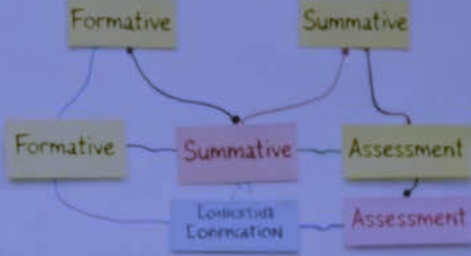
- 4.5.1 Children who are cross examined should be supported by an explanation of the process, arrangements for specific times to attend, and the provision of a support person.
- 4.5.2 Children are at times examined by the accused person however; prosecutors must ensure there is no intimidation or inappropriate line of questioning by the accused persons or defence counsel.
- 4.5.3 Prosecutors should intervene or seek the courts intervention when child witnesses are clearly overwhelmed, emotional, upset or feeling bullied.
- 4.5.4 During cross examination, Prosecutors should object to questions or remarks which are inappropriate or would expose the child witness especially if they are protected witnesses.

CHAPTER

5

MONITORING AND EVALUATION

Evaluation



CHAPTER 5:

MONITORING AND EVALUATION

The Purpose of this part is to monitor and evaluate how the Guide is being implemented with a view to identifying and documenting its successes and challenges. The ODPP shall develop an M&E system which will be regularly reviewed to reflect lessons learned on the ground, legal and policy changes as well as any advancement in research or international best practices.

To this end, the ODPP shall keep a record of the progress of implementing this guide.

5.1 REGISTER OF CHILD INTERVIEWS

1. The heads of counties shall ensure that a register of all child interviews are maintained. The purpose of the record is to:
 - i. To ensure interviews adhere to the law and these guidelines.
 - ii. To Safeguard the best interests of child interviewees.
 - iii. To identify capacity gaps and training needs.
 - iv. To support continuous development of child forensic interview practice.

5.2 FEEDBACK AND CORRECTIVE ACTION

- 5.2.1 Monitoring should be conducted routinely to support the interviewers. It is critical that the interviewers receive constructive feedback in a timely manner.
- 5.2.2 All reviews must respect confidentiality and data protection. Access to video recordings and other sensitive information of the child interviewee must be limited to authorized access only.
- 5.2.3 It is critical to ensure that the child interviewee's identity and case details are protected at all times.
- 5.2.4 Through M&E, supervisors take corrective action on the gaps identified by:
 - i. Conducting targeted coaching or training of interviewers in the regions.
 - ii. Collaborating with the Prosecution Training Institute to conduct refresher trainings.
 - iii. Increasing supervision where necessary and appropriately address serious or repeated deviations.



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NOTES

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