



Criminal Cases Review Commission

## CASEWORK POLICY

Policy Title: **Interviewing**

Reference: **CW-POL-21**

Version: **1.0**

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### The CCRC’s Quality Statement

The CCRC is committed to achieving high-quality case reviews as quickly as possible. In order to achieve this, we operate under a Quality Management System; please see ‘Q-POL-01 CCRC Quality Policy’ for further information. Our policy documents are available on our website: [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk).

If you or someone you represent has difficulty accessing the internet then please contact us via 0300 456 2669 (calls charged at local rate) and we will send a hardcopy of the relevant policy free of charge.

This is a quality-controlled document. Significant changes from the last issue are in grey highlight: like this. Significant deletions are shown as: [text deleted].

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## Introduction

This policy states the CCRC's approach to interviewing witnesses, victims of crime, and vulnerable people.

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## Key Points

- 1) Interviews are conducted to obtain the best evidence or information to assist the CCRC.
- 2) Interviewees can include police officers, lawyers, forensic scientists, applicants, members of the public, and victims of crime.
- 3) The CCRC will always act in a fair and reasonable way and with due consideration towards all interviewees.
- 4) A witness who gave evidence at trial (or at a previous appeal) will not normally be interviewed unless there is reason to believe they are in possession of some new information or evidence, or their credibility has been called into question.
- 5) Where the CCRC considers that there is a need to conduct an interview with a victim of crime, consideration will be given to making the approach through an appropriate police Family Liaison Officer.
- 6) Where children, vulnerable witnesses or applicants are interviewed, consideration will be given as to the additional support that may be required.
- 7) The Police and Criminal Evidence Act 1984 (PACE) does not apply to CCRC interviews; the CCRC will consider whether the appointment of an investigating officer from the Police is appropriate.
- 8) An appropriately qualified independent interpreter will be arranged if the witness cannot speak English, or is not fluent in English, or communicates through other means (e.g. by sign language).
- 9) The CCRC cannot give any assurance that information given by an interviewee will not be disclosed.

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## Definitions

None

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## 1 General Information

- 1.1 Interviews are conducted to assist the CCRC in the exercise of its functions. They take place in the context of a review, or as part of an inquiry directed by the Court of Appeal, or when considering a matter referred by the Secretary of State in connection with the prerogative of mercy.
- 1.2 Although the nature of interviews conducted by the CCRC will vary, they are either to gather information or to establish what evidence a witness is or is not able to give. Interviewees can include police officers, lawyers, forensic scientists, applicants and convicted persons, members of the public, and persons who have been victims of crime.
- 1.3 Interviews are conducted in order to obtain the best evidence or information to assist the CCRC. In most cases there must be a belief that the interviewee may be able to provide information or evidence that is material to the case review.
- 1.4 The CCRC will always act in a fair and reasonable way and with due consideration towards all interviewees regardless of any protected characteristics. The independent role of the CCRC will be maintained.

## 2 Interviewing Applicants and Witnesses

- 2.1 Where the CCRC is provided with a witness statement containing new evidence or information relevant to the review, the witness will normally be interviewed to establish the circumstances under which the statement was taken and to confirm the evidence or information that they can give.
- 2.2 Where a referral is being considered by the CCRC, based upon the information contained within a statement provided by a witness, s/he may be interviewed by the CCRC to confirm the evidence.
- 2.3 A witness who gave evidence at trial (or at a previous appeal) will not normally be interviewed unless there is reason to believe they are in possession of some new information or evidence, or their credibility has been called into question.<sup>1</sup>

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<sup>1</sup> See 'CW-POL-23 Witness Credibility Checks' for further information.

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#### 2.4 Code of Practice for Victims of Crime / Victim Charter

In circumstances where interviews with a witness may result in the victim becoming aware of the CCRC's review, consideration will be given to the appropriate course of action in relation to the victim, as required under 'The Code of Practice for Victims of Crime' (in England and Wales) and the 'Victim Charter' (in Northern Ireland).<sup>2</sup>

### 3 Interviewing Victims

- 3.1 Where the CCRC considers that there is a need to conduct an interview with a victim of crime, consideration will be given to making the approach through an appropriate police Family Liaison Officer or another appropriate professional.
- 3.2 Where a victim of a sexual crime is to be interviewed, consideration will be given to the constitution of the CCRC's interview team. The preferences of the victim, if any, will also be considered.

### 4 Interviewing Vulnerable Persons

- 4.1 Where the CCRC feels that it is necessary to interview a child or young person the interview will normally be in the presence of a parent or other appropriate adult.<sup>3</sup> The CCRC will also consider whether a police officer or other person with special skills should undertake the interview on the CCRC's behalf.
- 4.2 Where the CCRC considers it necessary to interview a person who has some form of mental impairment, is vulnerable or has a learning disability, an appropriate adult must be present.
- 4.3 Where other vulnerable witnesses or applicants (such as those that have been intimidated, or if they have been the victim of a violent, sexual, homophobic, or racist crime) are interviewed, consideration will be given as to what additional support, if any, they may require.

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<sup>2</sup> See 'CW-POL-09 Victim Notification' for further information.

<sup>3</sup> By "appropriate adult" the CCRC refers to people described as such in the Police and Criminal Evidence Act 1984 - Codes of Practice: Code C. The definition is at paragraph 1.7 of Code C. Please note: the role and duties of an appropriate adult are referenced several times throughout the Code; section 11 of Code C is of particular relevance.

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4.4 Interviews with protected / supported<sup>4</sup> witnesses or witnesses given anonymity at trial will be arranged through those responsible for managing them.

## 5 Interviewing Jurors

5.1 There may be occasions where it becomes necessary to interview a juror during a CCRC review. Generally, this will be as a result of a direction from the Court of Appeal.<sup>5</sup>

5.2 See 'CW-POL-22 Interviewing Jurors' for further information.

## 6 Interviewees who might admit offences

6.1 The Police and Criminal Evidence Act 1984 (PACE) does not apply to CCRC interviews. It will never be appropriate, therefore, for the CCRC to administer a PACE caution.

6.2 The CCRC will consider whether the appointment of an investigating officer,<sup>6</sup> or a more informal arrangement with the police<sup>7</sup> is appropriate in instances where it appears that an interviewee may:

- I. Have committed an offence and
- II. It may be in the public interest to prosecute should there be sufficient evidence of that offence.

6.3 When the CCRC is conducting an interview or meeting and there arises some possibility that what a witness might say could be self-incriminating, the interview will be stopped at any point at which it would be inappropriate to continue.

6.4 The CCRC will also have regard to its policy 'CW-POL-19 Disclosure by the CCRC'.

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<sup>4</sup> "Supported" and "protected" witnesses are the same category of witness. Either title may be used by the investigative authority having responsibility for that witness.

<sup>5</sup> Under section 15 of the Criminal Appeal Act 1995. See 'CW-POL-25 Investigations for the Court of Appeal (s.15)' for further information.

<sup>6</sup> Under section 19 of the Criminal Appeal Act 1995. See 'CW-POL-29 Power to Appoint an Investigating Officer (s.19)' for further information.

<sup>7</sup> Under section 21 of the Criminal Appeal Act 1995.

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## 7 Interview Records

### 7.1 Written Records

- 7.1.1 Where the CCRC conducts any interview, an appropriate written record of the interview will be made and the interviewee will be given the opportunity to sign this record.
- 7.1.2 Where the interviewee is able to provide evidence which will assist the CCRC in its review of a case, a signed witness statement or a signed record of interview will be obtained.

### 7.2 Audio-recording

- 7.2.1 The CCRC does not routinely audio-record interviews. A decision may be taken to record an interview if any of the following circumstances arise:
- I. The interviewee or their legal representative requests it.
  - II. Where an interpreter is used.
  - III. Where the interview is likely to be complex.
  - IV. Where it is important to maintain the flow of the interview.
  - V. To safeguard the integrity of the interview and the CCRC.
- 7.2.2 When the interview is going to be audio-recorded, the consent of the interviewee will be obtained. Appropriate audio recording equipment will be used and procedures followed.

## 8 Other Provisions

### 8.1 Interpretation

- 8.1.1 An appropriately qualified independent interpreter will be arranged if the witness cannot speak English or is not fluent in English.
- 8.1.2 Appropriate arrangements will also be made for interpretation where the witness communicates through other means, for example, by sign language.

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8.2 Accompanied Interviewees

Where interviewees wish to have their legal adviser present, or to be accompanied by a relative or a friend, this will generally be acceptable, so long as that person is not likely to become a witness in the review, or inhibit the interviewee's ability to be frank in interview.

**9 Confidentiality and Disclosure**

9.1 The CCRC cannot give any assurance that information given by an interviewee will not be disclosed. The interviewee can be provided with an explanation of the CCRC's disclosure policy, and the level of care that the CCRC will take with sensitive information will be explained.

9.2 See 'CW-POL-19 Disclosure by the CCRC' for further information.

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## Appendices

None

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### Relevant CCRC Documents

Q-MAN-01	CCRC Quality Manual
Q-POL-01	CCRC Quality Policy
CW-POL-09	Victim Notification
CW-POL-19	Disclosure by the CCRC
CW-POL-22	Interviewing Jurors
CW-POL-23	Witness Credibility Checks
CW-POL-25	Investigations for the Court of Appeal (s.15)
CW-POL-29	Power to Appoint an Investigating Officer (s.19)

### Legal Documents (available for free from [www.legislation.gov.uk](http://www.legislation.gov.uk))

Criminal Appeal Act 1995

Police and Criminal Evidence Act 1984

PACE Codes of Practice: Code C are available for free from

[www.gov.uk/government/publications/](http://www.gov.uk/government/publications/)

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### Document Control

Document author: Head of Investigations

Issue authorised by: Director of Casework Operations

### Version History

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