



Victims and Witnesses (Scotland) Act 2014

2014 asp 1

Interviews

7 Interviews with children: guidance

- (1) Subsection (2) applies where the persons mentioned in subsection (3) are jointly carrying out an interview with a child in relation to—
 - (a) criminal proceedings which have been instituted against some other person, or
 - (b) a matter which might result in criminal proceedings being instituted against some other person.
- (2) The persons must have due regard to any guidance issued by the Scottish Ministers about the carrying out of interviews with a child in relation to those matters.
- (3) The persons are—
 - (a) a constable,
 - (b) a social worker (as defined in section 77 of the Regulation of Care (Scotland) Act 2001).
- (4) The Scottish Ministers may by order modify subsection (3).
- (5) An order under subsection (4) is subject to the negative procedure.
- (6) In this section, “child” means a person under 18 years of age.

8 Certain offences: victim’s right to specify gender of interviewer

- (1) This section applies where an investigating officer intends to carry out a relevant interview with a person who is or appears to be the victim of an offence of a type mentioned in subsection (5).
- (2) Before the relevant interview takes place, the investigating officer must give the person who is to be interviewed the opportunity to specify the gender of the investigating officer who is to carry out the interview.

Status: This is the original version (as it was originally enacted).

- (3) If the person who is to be interviewed specifies a gender under subsection (2), the relevant interview may be carried out only by an investigating officer of that gender.
- (4) The investigating officer need not comply with subsection (2) if—
- (a) complying with it would be likely to prejudice a criminal investigation, or
 - (b) it would not be reasonably practicable to do so.
- (5) The types of offence are—
- (a) an offence listed in any of paragraphs 36 to 59ZL of Schedule 3 to the Sexual Offences Act 2003,
 - (b) an offence under section 22 of the 2003 Act (traffic in prostitution etc.),
 - (c) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation),
 - (d) an offence the commission of which involves domestic abuse,
 - (e) stalking.
- (6) Failure to comply with subsection (2) in relation to a particular relevant interview has no effect on any criminal proceedings to which the interview relates.
- (7) The Scottish Ministers may by order modify subsection (5).
- (8) In this section—
- “investigating officer” means—
 - (a) a constable, or
 - (b) a person of such other description as the Scottish Ministers may by order prescribe,
 - “relevant interview” means—
 - (a) questioning of a person in the course of criminal proceedings which have been instituted in relation to another person, or
 - (b) questioning of a person with a view to instituting criminal proceedings against another person.
- (9) Any reference in this section (other than subsection (10)) to an investigating officer includes a reference to two or more investigating officers acting jointly.
- (10) An order under subsection (7) or paragraph (b) of the definition of “investigating officer” in subsection (8) is subject to the negative procedure.