

Exploring the use of Cognitive interviewing and other special measures in questioning vulnerable witnesses in preparation for court

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SUMMARY

Research has shown that the Cognitive Interview is able to support the needs of Vulnerable Witnesses when being interviewed. The Cognitive Interview (CI) is one of the Special Measures used during police interviews as part of the Youth Justice and Criminal Evidence Act 1999 in Achieving Best Evidence (ABE) and should be video recorded. It allows the Vulnerable Witness (VW), who is supported by a Registered Intermediary (RI), to recall more facts and more accurate facts when being questioned. The Registered Intermediary assesses the needs of the witness and facilitates communication. The ABE is then re-played prior to court to provide an opportunity for memory refresh for the witness and also in court for the jury to review the evidence.

This exploratory, qualitative study explored the use of the Cognitive Interview and other Special Measures being used to support Vulnerable Witnesses in preparing for court and in a court of law. This research sought to understand the extent to which the use of the Cognitive Interview and other Special Measures are being used, when they are being used, and if their use supports Vulnerable Witnesses to be more credible in their witness statements in preparation for court and in a court of law. Five participants were interviewed. These included a Psychiatrist, and four Psychologists with different roles. Two were Registered Intermediary's, one was a National Witness Advisor and the final one had worked as a Probation Psychologist. Each participant was interviewed, the interview was recorded and then fully transcribed. The interviews were analysed through thematic analysis.

This research provides an indication that the use of special measures, including the use of the Cognitive Interview, are being used when supporting Vulnerable Witnesses to provide credible witnesses statements in preparation for and in a court of law. However, the extent to which they are being used is variable across different regions of the UK.

It was agreed by all the participants in this research that the role of the RI is very important and that with the use of Special Measures and effectively planned support that VWs can be credible in a court of law. Whilst the CI is not used in a court of law as an interviewing technique the ABE (recorded police interview) is shown to the jury in a court of law and the RI provides an assessment that outlines the needs of the VWs to the Lawyers, Barrister and Judge.

The complexity of the system is widely recognised but the nature of the Judicial System and modes of questioning in court can confuse VWs. This research indicates that the Lawyers and Barristers need to better understand the cognitive process of memory and recall in relation to the varying range of vulnerabilities.

Whilst the findings of this research are not significant they provide an indication of some interesting themes that would warrant further research. The lack of perspectives of interviewees is a limitation of this study and further research would need to find a way to gain the insights of these interviewees, perhaps through a survey and then follow up interviews. Further research would be required to explore these findings from the perspectives of the interviewers, both pre-court and in court.