

PLANNING TO QUESTION A CHILD or YOUNG PERSON

Toolkit 6

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Lexicon Limited

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This toolkit brings together policy, research and guidance relating to:

1. [Children's communication](#)
2. [Areas of difficulty affecting a child's communication at court](#)
3. [Case management](#)
4. [Framing your questions](#)
5. [Questions likely to produce unreliable answers](#)
6. [Good practice at trial](#)

See also Judicial College [Bench Checklist Young Witness Cases](#) 2012. In this toolkit, the terms 'child' or 'children' refer to all young people up to the age of 18 (section 16, [Youth Justice and Criminal Evidence Act 1999](#), amended by section 100, [Coroners and Justice Act 2009](#)).

The age norms of language development outlined in this toolkit are only a guide: they are not a replacement for assessment which will provide advice specific to the individual child.

KEY POINTS ABOUT QUESTIONING

Consider assessment by a Registered Intermediary (3.1). Tailor questions to the child's needs and abilities (2.1). Ask short questions (4.1), with common words and phrases (4.2), one idea at a time (4.3). Repeat names, places and objects often (4.4). Follow a logical, chronological order, explaining the subject and when it is going to be changed (4.5). Be aware of literal interpretation (4.6) and check directly on understanding (4.7). Do not rely on children (even adolescents) to say they do not understand (4.8).

Some question types (particularly those suggesting the answer) carry a high risk of being misunderstood or producing unreliable answers. They should be discussed at a ground rules hearing (5.1). These include questions:

- with 'tag' endings (ie a statement followed by an invitation to confirm its truth) (5.2- 5.7)
- a statement in the form of a question, asserting that something is a fact, which may not be recognised as a question (1.1)
- asking 'Do you remember...?' particularly where this concerns what the child told someone (5.9)
- using negatives, passives and 'objectifying' language (5.10)
- that are repeated (5.11) or contain forced choices (5.12)
- suggest that the child is confused or lying. If a challenge is developmentally appropriate, it should be addressed separately, in simple words, at the end of cross-examination (5.13).

Adopt a neutral posture and tone of voice. Speak slowly and allow the child enough time to process the question (at least six seconds). Allow the child to answer fully without interrupting. Take pre-arranged breaks, based on the child's concentration span (6.2).

1. CHILDREN'S COMMUNICATION

1.1 **Child development** occurs across four main areas, ie physical, intellectual, emotional and social, all of which interact. A range of communication skills are acquired over time:

- the ability to understand what others say and do;
- the ability of the child to express himself or herself;

- knowing how to communicate in a range of social situations;
- speech (the physical act of producing words).

1.2 **Children do not approach communication in the same way as adults** and do not use, process or understand language in the same way as adults.

1.3 **Within the ‘normal range’ of communication for a child’s age, ability can vary widely** Effective communication needs to take account of the individual child’s:

- chronological age, developmental stage, emotional state, education and culture;
- any condition that affects communication (see other Toolkits).

1.4 **Communication problems among children in the general population are more common than previously realised** Children with good vocabulary and speech sounds but poor understanding are most at risk of being missed ([Bercow Report](#) 2008). Around:

- 1% of children in the general population have an autism spectrum condition;
- 3% have a special educational need (SEN) associated with learning disabilities;
- 7% have significant speech/ language difficulties;
- 10% have a clinically recognisable mental health disorder (rising to around 60% of children looked after by local authorities);
- 50% of disadvantaged children have significantly lower than average speech/language skills.

1.5 **Many children with little or no speech can communicate effectively** using signing, communication aids or written answers, with the assistance of a Registered Intermediary.¹

2. AREAS OF DIFFICULTY AFFECTING A CHILD’S COMMUNICATION AT COURT

2.1 **The most significant factor** is the advocate’s ability to tailor questions to the needs and abilities of the individual child, enabling the child to understand the advocate’s questions and give answers that (s)he believes to be correct (chapter 5, [Equal Treatment Bench Book](#) 2013). This includes taking account of the child’s ability to refute a suggestion that is inaccurate. Adapting questions requires considerable skill and is very different from conversation with children in the family context. It involves advance preparation as well as the ability to respond flexibly *during* cross examination: this may require further adaptation or even abandoning of pre-planned questions and the assistance of a Registered Intermediary who will help ensure questions are understood.

2.2 **At least 50% of young witnesses, across age groups, do not understand questions they are asked at court** This rises to almost 90% for those aged 10 and under (Plotnikoff and Woolfson 2009). Similar problems are common in the youth justice system where at least 60% of young people have communication difficulties (Talbot 2010).

¹ Section 29, YJCEA 1999, restricts intermediary appointments to prosecution and defence witnesses. For information about Registered Intermediaries for witnesses, click [here](#). Members of the judiciary may use their inherent jurisdiction to appoint a non-registered intermediary for a vulnerable defendant. Section 104, [Coroners and Justice Act 2009](#), will (if implemented) enable the court to appoint an intermediary to assist certain vulnerable defendants but only when giving oral evidence at trial.

2.3 ***Even bright, intellectually able children find court communication methods and language challenging simply because of their age*** The ‘rules’ of court communication are very different from those children are used to in every-day conversation.

2.4 ***Acquisition of language is a gradual process, evolving over time*** Implications for questioning at court include the following:

- studies in which children are cross-examined about staged events indicate that questions suggesting answers exert an overall negative effect on children’s accuracy;
- inconsistency of language in reporting of events is normal, and does not necessarily indicate a fundamental inconsistency;
- until around 10, children cannot organise their thoughts to give a detailed account, or explain the order in which things happened. Under that age, they are generally unable to answer questions about why something happened;
- brain-imaging and behavioural studies show that changes continue into the early 20s. The frontal lobes, responsible for reasoning and problem-solving, develop last. Adolescents are often confused by linguistic ambiguity or long or complex questions. They do not acquire the ability to give an account of what happened (in the way expected of an adult) until they are older;
- many teenagers (particularly the poorly-educated, inadequately-parented adolescents with poor emotional attachments and those who are developmentally delayed) remain stuck in the 7- to 10-year-old stage of language development. Teenagers are at particular risk of miscommunication because of their reluctance to ask for clarification and adults’ higher expectation of their ability to understand.

2.5 ***Children under stress may function at a lower level*** making it hard to remember accurately and think clearly. Causes of anxiety include delay before/ at trial; fear of seeing the defendant/ his supporters; feelings of shame or guilt; fear of retribution; and anxiety about giving the wrong answer, not being believed or being overwhelmed by emotion in the presence of strangers. Signs of stress are not restricted to crying and include:

- appearing numb, passive or falling silent. Questions relating to traumatic events may cause a child to ‘freeze’ and shut down the ability to respond;
- 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 strange behaviours, eg tapping arms or legs, pulling at clothes, and even inappropriate laughter.

3. CASE MANAGEMENT (see also Toolkit 1(a) Case management and 1(c) Ground rules)

3.1 ***Information about the individual child’s communicative needs is essential and, if not supplied, must be requested*** All children under 18 are eligible to be considered for the intermediary special measure. If a child seems unlikely to be able to recognise a problematic question or tell the questioner that they have not understood, assessment by a Registered Intermediary should be considered, even if not used at interview ([Achieving](#)

[Best Evidence](#) (Box 2.1, 2011; [Special Measures: Intermediaries](#) CPS 2012). This should be considered in all child sexual abuse cases (paras 37, 85, CPS [Guidelines on Prosecuting Cases of Child Sex Abuse](#) 2013).

3.2 **Familiarisation** Children's performance under cross-examination is positively related to their self-esteem, self-confidence and assertiveness (Zajac et al 2009). A trained supporter should help children understand their witness role, using [Young Witness Pack](#) booklets. They should practise on the live link, and see screens in place, to be able to express an informed view about special measures (parts B5, 6, [Application for a special measures direction](#)).² Children given a choice about whether or not to use the live link were assessed as giving more effective testimony, irrespective of the method of testimony (Cashmore and De Haas, 1992). The special measures requested should be kept under close review (para 84, CPS [Guidelines on Prosecuting Cases of Child Sex Abuse](#) 2013). **Good practice examples:** The prosecutor attended the court visit and asked the child non-evidential questions (prepared by the intermediary) over the live link. This helped the child understand communication rules at court and contributed to the intermediary's assessment. In another case, an intermediary supplemented the live link experience for a child with face-to-face phone calls using a tablet computer and smart phone.

3.3 **Live link considerations** Most children want to use the live link and many would refuse to give evidence any other way but:

- some find it more difficult to understand/ be understood over the live link and require help from an intermediary. **Good practice example:** both advocates were in the live link room for cross-examination of a young child (for details, see Toolkit 7);
- the 'picture in picture' on the child's screen can be distracting. If this is the case it should be disabled or covered;
- early signs of the child's confusion, tiredness or stress are often not apparent over the live link. The person with the child should have an agreed way to alert the court.

3.4 **Problems sometimes arise with the DVD interview** used as evidence-in-chief (eg due to its length). This can usually be corrected by editing. Where it seems preferable for the witness to give 'live' evidence-in-chief, this must be discussed with the witness at the earliest opportunity. The witness is still entitled to memory refreshing. **Good practice example:** a statement was made to condense a lengthy DVD interview. The Registered Intermediary and police officer agreed that the intermediary would review the statement for vocabulary, grammar and phrasing and suggest any amendments. Then the officer, witness and intermediary would read through the statement together.

3.5 **Ensuring children give evidence while they are fresh.** One way to achieve this is for the child to watch the DVD evidence in chief at a different time from the jury (Judicial College [Bench Checklist Young Witness Cases](#) 2012). Earlier viewing allows children to

² Courts should have a consistent policy on taking photographs (eg of the live link room) to support explanations, subject to appropriate restrictions, having regard to court security requirements: see 'Children and Vulnerable Adults' chapter, Equal Treatment Bench Book (2013) Judicial College, forthcoming.

take breaks as necessary. In certain circumstances, the child need not watch at all. **Good practice example:** a 13-year-old with significant emotional problems refused to watch his DVD and was allowed instead to read the transcript with the intermediary.

- 3.6 **The interview transcript may omit important non-verbal communication** (gesture and/or pictorial aids) or key passages may be marked 'inaudible'. Sometimes it does not fully reflect the communication of a witness whose speech is hard to decipher. An intermediary can help provide a more complete account of verbal and non-verbal communication, eg describing gestures without interpretation, e.g. 'child puts finger in mouth'. **Good practice example:** The judge directed an intermediary who was familiar with the witness's communication to revise the transcript to include use of signs and communication aids.
- 3.7 **A neutral supporter trusted by the child** should always be considered as a special measure because of potential benefits to recall and stress reduction. The child's wishes must be taken into account (part C3, [Application for a special measures direction](#), section 102, [Coroners and Justice Act 2009](#); Judicial College [Bench Checklist Young Witness Cases](#) 2012). **Poor practice example:** the application for an independent supporter for a 14-year-old in an alleged sexual exploitation case was refused without reasons. When the child was told she would be accompanied by an usher, she was reluctant to give evidence.
- 3.8 **It is inappropriate to ask someone to demonstrate intimate touching or sexual acts at court** using their own bodies. Such questions have been addressed using the child's own drawings made at interview or a diagram or body map identified by the intermediary, eg '[How it is](#)' (Triangle); '[Living Your Life](#)' (Brook); lexiconlimited.co.uk/body-outline; and Annex B, [Good practice guidance in managing young witness cases and planning to question children](#) (2009). The child has to be able to use a body map correctly for demonstrative purposes.

4. FRAMING YOUR QUESTIONS

- 4.1 **Ask short questions** Children have a limited working memory. In order to answer accurately they need to be able to remember the question from beginning to end:
- as the number of words in the question rises, the child's ability to understand it falls. *'But if as you say it was dark outside, and if as you say there was no light on in the room, it would not have been possible for you to see what was happening on the bottom bunk, would it?'*³ (41 words, asked of a 7-year-old);
 - prefacing each question with instructions makes the subsequent question too long to process, eg *'If you don't know the answer, say "I don't know". If you can't remember, say "I can't remember"'* (the preamble to every question asked of an 8-year-old). Any instructions should be given and practised before actual questioning starts.

³ Examples from trial transcripts are used to illustrate particular points. Some of these example questions contain other problems impeding communication which are not identified here for reasons of space.

4.2 **Use simple, common words and phrases** Avoid redundant words and phrases (eg ‘*In fact*’, ‘*To your knowledge*’, ‘*I put it to you*’, ‘*I wonder if you can tell me*’, ‘*Do you follow?*’). Avoid jargon (eg ‘genital area’ – adopt the words used by the child and child’s family) and complex vocabulary (eg differentiate, demeanour, recollection, consider, intention):

‘*Where were you born and where do you reside?*’ (asked of a 9-year-old);

‘*So is it a cul de sac?*’ (asked of a 12-year-old).

‘*Were you told you’d get into trouble for retracting your version of events?*’ (asked of a 15-year-old).

4.3 **Use a simple sentence structure, one idea at a time** Even if children have enough auditory working memory and know what individual words mean, they are likely to be confused by complex sentence structure:

- questions starting ‘Well’ or ‘So’ are usually complex. ‘Now’ may be used appropriately to signal a change of subject, but may also introduce an inappropriately complex question, eg: ‘*Now do you say that whatever it was that happened, or whatever it was that happened to Dan, you were in the toilet at the time and you obviously heard something, did you?*’ (asked of an 11-year-old);
- questions with clauses linked by but/ because/ although/ so that/ and. For example: ‘*Did you ever tell your mum it was not you but it was Mark and Nick who took your knickers down?*’ (a question containing a series of propositions, asked of an 8-year-old). Better alternatives include: ‘*Did you pull your knickers down?*’; ‘*Who pulled your knickers down?*’; ‘*Did you tell someone that Mark and Nick pulled your knickers down?*’;
- answers to questions with more than one proposition are often ambiguous because it is unclear which the question the child is answering (often, only the last part): Q: ‘*Just to be clear, there is no doubt in your mind, you were assaulted the first time on the first night on the first occasion? What were you doing this first night? On the night what were you doing?*’ (asked of a 15-year-old). A: ‘*I can’t remember*’.

4.4 **Repeat names, places and objects often** Using the child’s preferred name can help keep him/ her focused. Identify the police officer (and other relevant people) by the name known to the child. Identify names and places eg ‘*How often does your mum let you go to the chip shop?*’, not ‘*How often does she let you do that?*’ (asked of a 9-year-old).

4.5 **Follow a logical, chronological order** Questions that appear unconnected require constant re-orientation by the child and are likely to cause confusion:

- avoid referring to more than one event in a single question, eg
‘*When was the last time he did this to you before the one we have been speaking of? We have been speaking of just one in February, obviously, when was the last time he interfered with you before that?*’ (asked of a 12-year-old);

'So, I think you said that just the moment before H took out the knife, and we will talk about the knife in a minute but just before that moment, she said to you "I have got something down my trousers that could kill you"?' (asked of an 11-year-old);

- consider using a visual time line or similar device if asking a young child to differentiate separate events. An intermediary can assess the child's ability to use neutral communication aids and assist in creating them, eg with each picture labelled with the witness's own words. The child can be instructed to look at one picture: *'Now we're just thinking about this time'*. **Good practice example:** In interview, a 7-year-old was asked about events over a three-year period. Working with the intermediary, he was helped to fill in cards about events attached to the relevant season, holiday or place, eg when he first moved to this house 'before Christmas when he was 6'. Each 'house' was distinguished by a cardboard outline and cardboard figures for people living there;
- explain when the subject is about to be changed. Set the scene for the new topic, giving the child transition time to focus. It can help to schedule a break (or a pause in the live link room) at the end of a subject.

4.6 Be aware of children's literal interpretation Younger children and those with autism spectrum conditions (Toolkit 3) are unable to infer meaning. Idioms and metaphors should be avoided, eg *'That's put it, as it were, into the long grass'* (said to a 9-year-old). Deciphering underlying meanings can be problematic even for some older children.

4.7 Check directly on understanding Listen to what the child says, and try to understand what the child *means*. A young child often uses words before fully understanding them:

- relational words. Even if understood, these take more time to process when used in a question, eg before/ after; in front of /below /under /ahead of /behind; bigger/ smaller; always/ never; different/ same; and more/ less;
- ask/ tell. These may not be differentiated until the age of 8 or 9. Q: *'Who was the first person that asked you and you told about dad and his willy?'* (asked of an 8-year-old). A: *'I don't understand'*;
- family references, eg 'daddy' may be used for more than one person;
- words relating to time, measurement and other concepts (for more detail, see Toolkit 7). Even when used, concept words may not be fully understood:
 - ability to count does not mean the child can answer questions involving numbers
 - ability to tell the time usually begins around the age of 7 (though the child may not be familiar with both digital and conventional clocks). However, this does not indicate ability to judge length of time accurately
 - knowledge of what day of the week or month it is (even if these can be recited) is not reliable until around the age of 8
 - 'any' or 'ever' asks the child to search for every possibility. Younger child cannot process this type of question, eg *'I put it to you that you did not see Peter do any of these things, did you?'* (asked of a 7-year-old). Better alternatives include *'What happened?'*. *'Are you sure?'*. This phrase is preferable to *'Is that right?'* because 'right' gives undue emphasis to the suggestion.

4.8 **Do not rely on children (even adolescents) to say they do not understand** It is good practice to ask children to say when they do not understand a question. However, they often try to answer even if they do not understand or have no knowledge. Reasons for failing to say they do not understand include reluctance, because the questioner is an authority figure and the child does not want to look stupid, and because they think that they understand the question when they do not. Be alert to non-verbal clues to miscommunication, eg puzzled looks, knitted eyebrows, downcast eyes and long pauses.

4.9 **Consider use of communication aids** such as drawings, photos and symbols. Children may be more competent to demonstrate what happened, rather than just explain in words. Aids may allow children to both show and tell (section 3.107, [Achieving Best Evidence](#) 2011). There are risks as well as advantages (sections 3.103-122). They 'should be used with caution and never combined with leading questions' (section 3.108). Use should not prevent the child from gesturing (section 3.111). An intermediary can assist in identifying neutral, balanced aids or creating them with the child. For examples, see Toolkit 7.

5. QUESTIONS LIKELY TO PRODUCE UNRELIABLE ANSWERS

5.1 **Some question types carry a high risk of being misunderstood or producing unreliable answers** (chapter 5, [Equal Treatment Bench Book](#) 2013). Conventional cross-examination questioning decreases the accuracy of children up to the age of 10 and has a significant affect on the accuracy of adolescents (Jack and Zajac 2013). Children are particularly susceptible to questions suggesting the answer. As a question supplies more information which did not originate with the child, it becomes more leading. Problematic question types should always be discussed at a ground rules hearing (good practice in all young witness cases and essential in intermediary cases: see Toolkit 1(c) Ground Rules, section 3).

5.2 **'Tag' questions should be avoided with children** 'Tag' questions make a statement then add a short question inviting confirmation, eg '*John didn't touch you, did he?*' or '*John didn't touch you, right?*'. Judicial guidance recommends that tag questions be avoided with children and that a direct question be put instead, eg '*Did John touch you?*'. '*How did John touch you?*' (Judicial College [Bench Checklist Young Witness Cases](#) 2012).

5.3 **Tag questions are powerfully suggestive and linguistically complex** In order to be able to respond accurately, the witness has to be able to:

- judge whether or not the statement part of the question is true;
- understand that a tag expresses the advocate's viewpoint, and is not necessarily true;
- meet or counter that point of view. 'Children cannot be expected to resist both the psychological and linguistic pressure which a tag question exerts in a court setting where the questioner is a powerful authority figure' (Graffam Walker 1999).

5.4 **Tag questions that combine a negative and positive ('John didn't touch you, did he?') add a further layer of complexity** because the witness has to understand that:

- a positive statement takes a negative tag (*'It is raining, isn't it?'*) and vice versa (*'It isn't raining, is it?'*);
- a negative tag does not affect a positive statement (*'It is raining, isn't it/ is it not?'* does not mean that it is not raining).

5.5 **A negative tag may be used, confusingly, without any other supporting question content** eg Q: *'Now, this happened on a Friday, was it not?'*. A: 'Yes' (asked of a 7-year-old).

5.6 **Young children often perceive 'Yes' as the desired answer to a question in which the tag is negative**

5.7 **Responses to tag questions may be ambiguous** eg Q: *'When Mr Smith asked you if you could remember anything about a towel, you said you could not remember anything about a towel? The first time? Is that not right?'* (asked of a 15-year-old). A: 'No'.

5.8 **Other forms of assertion** When an adult in a position of authority formally suggests that something is a fact, it becomes extremely difficult for children – even 11- and 12-year-olds – to disagree if necessary, and to maintain verbally what they believe to be true. The younger the child, the riskier 'assertion' questions become. The Lord Chief Justice has called use of assertions to young witnesses '*particularly damaging*'.⁴ The difficulty is both cognitive and emotional:

- assertions, eg *'I suggest to you that...'*, *'I believe you told us...'*, *'In fact...'*, *'Isn't it a fact that...'* lengthen the question as well as increasing the likelihood of unreliable responses (Klemfuss et al 2014);
- statements may be interpreted by the child as comments, not as questions requiring responses, eg *'You didn't want your mum to think you had been naughty'* (asked of an 8-year-old). Better alternatives include *'Did your mum think you were naughty?'* followed by *'Were you worried that mum thought you were naughty?'*

5.9 **'Do you remember...?'** This type of question requires complex processing which may be beyond the ability even of older school-age children:

- children are likely to be confused when asked not about the event but about what they told someone else. Use of quotes aggravate the problem, eg *'Do you remember when you were being asked by the sergeant, what was said, you said that your father said, "He loved me" that's all he really said. Do you remember?'* (asked of an 11-year-old);
- answers may be ambiguous, especially to tag questions: Q: *'Now you had a bruise, did you not, near one of your breasts, do you remember that?'* (asked of a 12-year-old). A: 'No'. This could mean *'No, I don't remember'* or *'No, I didn't have a bruise there'*.

5.10 **Use of negatives, passives and 'objectifying' language** in questions reduce clarity and increase the likelihood of confusion and inaccurate responses:

⁴ ['Half a century of change: the evidence of child victims'](#) Toulmin lecture (20.3.2013) King's College London.

- questions containing a negative are more difficult for a child to understand, eg *‘That is not a lie?’* (asked of a 12-year-old). Children’s strategies for processing even a simple negative are not always in place at the age of 9;
- older children and many adults have difficulty with double and complex negatives, eg *‘It has been suggested to you that when you were raped you didn’t say no?’* (asked of a 16-year-old); *‘After going to the church, I’ll put it to you that he at no time told you not to say anything to anyone’* (asked of a 15-year-old); and *‘It’s not untrue that you forgot, is it?’* (asked of a 14-year-old);
- children are more likely to be confused by questions in passive form, eg *‘Were you to have been taken to school that day?’* (asked of a 10-year-old);
- questions which remove personal references to the witness and/or defendant and objectify the action are harder to process, eg *‘Did you tell the police about what is in that statement about the matter, about the touching of the boobs?’* (asked of an 11-year-old). This question form can cause comprehension problems even for adults.

5.11 Questions repeated by one or more authority figures risk reducing a child’s overall accuracy This is so whether asked consecutively or interspersed with others:

- children’s experience at school is that, if the teacher repeats the question, their first answer was wrong or unsatisfactory. Anxiety, combined with the desire to please someone in a position of authority, can cause even typically-developing children to change their first answers, regardless of initial accuracy;
- if a question needs to be repeated (even with changed wording) for clarity, explain that you want to check your understanding of what the child said, eg: *‘Thank you, but I want to be really sure I understand. Tell me again’* (followed by the question);
- a series of propositions inviting repetition of either ‘Yes’ or ‘No’ answers can cause the child to get into a pattern and stop replying to individual questions. If only ‘Yes’/ ‘No’ questions are asked, it is difficult to determine if the child is having a problem;
- as questions become more leading, repetition is more likely to result in a change of response;
- children’s memory for peripheral information is likely to be less good than for core details. They are more likely to change their responses when repeated questions concern peripheral details or minor events;
- an advocate’s repetition of: *‘If you can’t remember, say “I can’t remember”’* was construed by the judge as leading the child to answer *‘I can’t remember’*.

5.12 Forced choice (closed) questions create opportunities for error when the correct alternative may be missing, eg *‘When he hit you, did you shout or cry?’* (‘Yes’ could mean *‘I shouted’* or *‘I cried’* or both. This answer may be incomplete because the child may have done something else). Children under 8 or 9 will struggle to respond accurately. Where this type of question is unavoidable, one approach is to give two options followed by an open-ended query, eg *‘Were you standing, sitting down, or something else?’*.

5.13 **Questions suggesting the witness is lying or confused** are likely to have an adverse impact on concentration and accuracy, particularly if repeated. (For an alternative approach in which such points are explained to the jury but not put to the witness, see Toolkit 1(c)(3) Ground Rules). If a challenge is developmentally appropriate, it should be addressed separately, in simple language, at the end of cross-examination. Children should not be asked 'Do you tell lies?' unless there are grounds to think that the witness is an habitual liar. It is not enough that the witness's evidence contradicts that of the defendant (section 5.17, [Achieving Best Evidence](#) 2011).

6. GOOD PRACTICE AT TRIAL

6.1 **Ensure that equipment is working/ sound quality is good before the child enters the live link room** Check camera angles (crucial if the child relies on gesture). Change the angle to get the best view picture; do not seat the child on additional cushions.

6.2 **Feedback from young witnesses** identifies the following as good practice:

- begin the child's evidence without delay while the child is fresh;
- adopt a neutral posture and tone of voice. Avoid body language and facial expressions that could indicate displeasure, disbelief, frustration or impatience;
- speak slowly, allowing the child to follow what you say (even if asked to slow down, some advocates forget and resume their usual pace);
- allow the child enough time to process the question (at least six seconds). Be patient. Do not fill pauses by asking more questions. Allow the child to answer fully. Interruptions are likely to be confusing or upsetting and may also suggest that only short answers are appropriate;
- take pre-arranged breaks, based on the child's concentration span (likely to be shorter than normal at court). Children may not ask for a break when they need one in order to 'get things over with'. If the child shows anxiety, distress or embarrassment, pause (while the child remains in the live link room), shift the focus of questioning (signposting the change of subject first) until the child regains composure, or suggest a break;
- ensure that the child can see your face while you speak, not just the top of your head;
- allow the child to avert their gaze while thinking. In some cultures it is considered inappropriate for them to maintain eye contact with adults in authority.

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Advocacy Training Council (2011) [Raising the Bar: The handling of vulnerable witnesses, victims and defendants at court](#) Pt 5

Bercow Report (2008) [A Review of Services for Children and Young People \(0-19\) with Speech, Language and Communication Needs. Department for Children, Schools and Families](#) DCSF Publications

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