

Witness Name: Gregor McGill
Statement No.: 5
Dated: 04.08.20

THE INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE

Witness Statement of Gregor McGill

I, Gregor McGill, will say as follows:-

1. I provide this statement on behalf of the Crown Prosecution Service ('CPS') in response to a further rule 9 request, received on 13 July 2020. This is my fifth statement concerning the investigation into allegations of sexual abuse linked to children in the care of Lambeth Council.
2. I have been asked to clarify or expand upon topics covered during my oral evidence on 10 July, namely to provide further details in respect of;
 - CPS file retention policy
 - ABE interviews
 - Intermediaries
 - Support to victims

File Retention Policy

3. In my first statement I provided details about the CPS' file retention policy. During my oral evidence I was asked whether it was an issue in sexual offence cases that what had been said in earlier hearings or cases was no longer available and whether such issues were impacting on prosecution decisions or the effectiveness of them. I was asked to review the position and respond to the Inquiry accordingly. It is against that background that I am now asked, in the rule 9 request, whether material obtained during child sexual abuse trials could be retained indefinitely.
4. There are a number of factors which require consideration when determining for how long case material ought to be retained by the CPS. The Public Records Acts (PRA) 1958 and 1967 place obligations on departments to destroy records, which are not required for permanent preservation. The Data Protection Act (DPA) 2018 which implements the General Data Protection Regulations (GDPR) requires that records are kept for no longer than is necessary. GDPR Article 5(1)(e) about storage limitation specifies that personal data shall be kept for no longer than is necessary for the purposes for which the personal data is processed. Personal data may be stored for longer periods insofar as it will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) of GDPR.
5. The CPS is obliged to comply with this legislation. In doing so it has interpreted the legislation to identify a cut-off point at which cases will be automatically destroyed, so as to comply with the DPA and has identified categories of case which would be required for permanent preservation to comply with the PRA. These cases are

classified as Long Term Interest cases and have been identified, broadly, as those which have significant legal interest or significant legal precedent value, demonstrate new or revised legal or investigative procedures, demonstrate early operation of new legislation or are unusual or rarely charged offences.

6. Cases where the sentence was life imprisonment or an Unlimited hospital orders (under the Mental Health Act 1983) and offences committed by life licensee or person subject to hospital order, Double Jeopardy Proceedings and cases concerning famous, eminent or notorious people (international or national) and 'Disaster' cases are also classified as Long Term Interest cases.
7. Given the variety of ways in which material can now be stored electronically, it is likely to be possible in principle to retain materials in a wider range of cases, however, as a Data Controller we would need to be satisfied that retaining such data is necessary, meets our obligations under the DPA 2018 and meets the requirements of the PRA. In this respect what is deemed "necessary" as a prosecuting body and what is "necessary" as an investigative body will be different.
8. However, it appears to me that our Record Retention Policy would benefit from review to ensure that it not only meets current business needs but also societal expectations. In view of the consequence of such a policy change, particularly in respect of the rights and freedoms of data subjects, I have asked our Departmental Records Officer to review our current retention policy and to report those findings for consideration to the CPS' Data Protection Officer.

ABE interviews

9. I am asked to provide a summary by way of reference to Inspection reports and up to date surveys, on the quality of ABE interviews and any other evidence relied upon to suggest there has in fact been an improvement in the quality of ABE interviews.
10. The requirement to conduct ABE interviews is an investigative process undertaken by the police. Often the CPS will not be involved in cases at this early stage since, by definition, in many cases the ABE interview will be the record of the complaint which will start the investigation. In many cases the ABE is conducted early in the investigation before many lines of enquiry have been pursued. The police may not, at that stage, know whether or not an offence has been committed or the nature of that offence and they are unlikely to be in a position to require the advice of a prosecutor. As a result, in most cases the advice of a prosecutor is not requested until after the ABE has been conducted. At that stage, where the quality of the ABE interview is lacking in some respect, the options are generally to accept the ABE interview or to advise that a further interview is conducted.
 - **ABE Guidance 2011 (current)**
11. The current guidance on ABE interviews is "**Achieving Best Evidence in Criminal Proceedings**" (2011) (NAP000012). It is owned by the Ministry of Justice. It stresses the need for Officers interviewing children to plan interviews taking into account the child's intellectual abilities and emotional and psychological needs. The Guidance also stresses the need for intermediaries to be used.
12. It also recognises that a video-recorded interview serves two primary purposes:
 - Evidence gathering for use in the investigation and in criminal proceedings; and
 - The evidence-in-chief of the witness