Pre-trial cross-examination for vulnerable ‘under consideration,’ says Attorney General at website launch

The Attorney General Dominic Grieve has said that the idea of pre-recorded cross-examination for vulnerable witnesses and children is under active consideration and ‘is not being brushed under the carpet’. “My colleagues at the Ministry of Justice are currently in discussion with a number of partner organisations about potential pilots using pre-recorded cross-examination for such witnesses,” Mr Grieve said. “They want to take this forward. While we need to think it through carefully, because it may in some cases be unfair to the defendant, I have always believed the problems are not insurmountable.”

Mr Grieve was speaking at a special reception to mark the launch of a new website called ‘The Advocate’s Gateway’ which details best practice in this area. The brainchild of Kingston University Law Professor, Penny Cooper and researchers Joyce Plotnikoff and Richard Woolfson of Lexicon Limited, the site - www.theadvocatesgateway.org - is designed to improve lawyers’ questioning of vulnerable witnesses and defendants. This comes in the aftermath of such high-profile cases as the Jimmy Savile sexual abuses, the abduction of April Jones, the Gary McKinnon Asperger’s case and the murder of a British family in the French alps – all of which involved child witnesses or adults with special needs.

Currently when children or adults with disabilities and/or communication problems go to court they can face a pressurised environment with possible disturbing cross-examination by the defence either face-to-face in court, or via a TV link. This could potentially include loaded questions such as: “He didn't touch you, did he?”. Although provision was made in the Youth Justice and Criminal Evidence Act 1999 for pre-recorded cross-examination, the relevant section has not yet been brought into force.

The reception, held at the Inner Temple in central London on Friday (April 26) showcased the new website for advocates which provides easy and free access to practical guidance for working with witnesses and defendants who have additional needs. “Until now there has never been a single online resource bringing together the best of research and practice in relation to vulnerable witnesses and defendants,” Professor Penny Cooper said. “The site is groundbreaking with all the content being available free online and we believe it should be required reading for anyone questioning a child or an adult with special needs.”
The Advocate’s Gateway site, developed and hosted by the Advocacy Training Council (ATC), contains comprehensive guidance including legislation, articles and descriptions of the common problems encountered when examining vulnerable witnesses, together with suggested solutions.

The Attorney General said he greatly welcomed the development. “Advocates try to be experts in their own discipline but this is a complex area,” he explained. “The website is very helpful in disseminating good practice and I think the judiciary will find it extremely useful as well.”

Children’s charities had long argued that young people needed more protection in this area, Esther Rantzen, who was representing Childline and the NSPCC at the event, explained. “The Advocate’s Gateway is a huge step forward, and is particularly significant post-Savile,” she said. “It will help lawyers tell the difference between a question that a six year old might or might not understand and help end some of the blatant injustices of the past.”

The site was launched in conjunction with a short film on the subject of vulnerable witnesses made by the Criminal Bar Association called ‘A Question of Practice’.

Chair of the Advocacy Training Council Nicholas Green QC said he believed the Advocate’s Gateway could have a global impact. “The work being undertaken by the profession in relation to the treatment of vulnerable witnesses in court is of great public importance,” he said. “Both the website and the film are designed to improve the fairness of trials and are very significant indeed. I am quite sure that they will become widely used and appreciated not only in this jurisdiction but internationally.”

The Advocate’s Gateway is a unique collaboration involving Kingston University, Lexicon Limited, the Advocacy Training Council, the Judicial College, the Law Society of England and Wales, the Solicitors’ Association of Higher Court Advocates, the Crown Prosecution Service, the Chartered Institute of Legal Executives, the Ministry of Justice and the Criminal Bar Association.

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