

Guideline for Interviewing Minors

This guideline is issued by the ADM Arbeitskreis Deutscher Markt- und Sozialforschungsinstitute e.V., the ASI Arbeitsgemeinschaft Sozialwissenschaftlicher Institute e.V., the BVM Berufsverband Deutscher Markt- und Sozialforscher e.V. and the D.G.O.F. Deutsche Gesellschaft für Online-Forschung e.V.

1. Introduction

Under German law any child or adolescent under the age of 18 is a minor. In principle interviews with such persons are subject to the same rules as those governing interviews with adults. Essentially they require that it must be informed about the voluntary nature of participation and that consent must be obtained for the processing and use in an anonymised form of the collected data. For the treatment of the addresses of the persons interviewed the rules apply as laid down in the "Guideline on the Treatment of Addresses in Market and Social Research".

In addition the following rules must be observed when interviewing minors:

2. Consent

According to current legal opinion, consent does not constitute a contractual declaration. For this reason alone it is not a matter of the legal capacity of the person concerned (which legislators have tied to certain age limits) but of that person's **cognitive faculty**. Thus the decisive issue is whether the minor is able to comprehend the consequences of his/her data being used and to express an opinion accordingly.

If a minor has such cognitive faculty, then his/her legal representatives (normally the parents) do not need to give their consent. In the absence of this cognitive fac-

ulty, it is essential to obtain the consent of a legal representative – though not in writing.

Children **under the age of 11 years** must be assumed in principle not to have this cognitive faculty. This means that recruiting and/or interviewing of children under the age of 11 years is not permissible in principle if the child is not accompanied by a legal representative, meaning that consent cannot be obtained.

When interviewing children **between 11 and 13 years** it is the responsibility of the agency conducting the research either to have the interviewers discover the cognitive faculty or – to ease the burden on the interviewer – to assume in general that this age group does **not** possess the cognitive faculty and therefore the consent of a legal representative is required. In making such a decision, the research **topic** may also be relevant.

Irrespective of the alternative "consent of a legal representative" or "cognitive faculty of the child/adolescent" interviews with minors **under the age of 14 years** should not be conducted **without the knowledge of an adult** present in the home. This includes that the interviewer **should not enter a home** if, apart from the child/adolescent under the age of 14 years, no adult is present at that time.

Depending on the research subject for population samples different age limits are relevant. For adolescents in the age-group of **14 to 17 years** the necessary **cognitive faculty** can be **assumed in principle**.

If no legal representative is present when interviewing adolescents the "Declaration on Data Protection" shall be handed over to the adolescent.

For group discussions conducted with minors, the procedure for invitation and consent and the possible accompaniment by legal representatives depends – analogous to interviews – on the conclusions concerning the cognitive faculty that may be drawn from the age.

3. Presence of a legal representative

In principle wishes concerning the presence of a legal representative have priority over methodological considerations (for instance to obtain uninfluenced responses). Nonetheless it is permissible to explain the reasons and request the legal representative for permission to conduct the interview with the minor **alone**. If this request is not granted and it is methodologically not defensible to conduct the interview in the presence of the legal representative, the interview cannot be conducted.

When explaining the reasons why the interview with the minor is to be conducted in private it is sensible and useful to allow the legal representative to see the questionnaire **beforehand**. If the legal representative wishes to see the **completed** questionnaire **afterwards**, this wish shall be dealt with from case to case taking into account the respondent's age. In principle the rights deriving from **data protection** apply **to minors, too**. If a legal representative makes his/her consent conditional on seeing the completed questionnaire afterwards, then the interviewer must have instructions for the specific situation and must clarify at that time whether the minor is willing to participate in the interview under these circumstances, and – if so – whether uninfluenced responses can still be expected. If not, then in this situation, too, it will be necessary to refrain from conducting the interview.

The same is true for **classroom-surveys** where children and adolescents completing questionnaires or being interviewed in the school premises – having obtained prior permission from the **school administration**. Whether in such cases the **consent of the legal representatives** is required in addition or not depends on the cognitive faculty of the children to be interviewed. Irrespective of this, the consent of the legal representatives is needed in general when **data concerning the legal representatives** are collected also at the classroom-interview.

The additional consent of the legal representatives should be clarified and, where appropriate, be arranged for with the school administration from case to case.

When conducting classroom-surveys the agency has to observe in principle the distinct school law of the Federal States.

4. Topics of surveys

The contents of the interviews with minors are the responsibility of the agency conducting the research. Normally pure **market research topics** pose no problems. If the topics are of social research nature and the minor and, where appropriate, the legal representative agrees to an interview on these topics, there are no general restrictions, too.

However, for reasons of research ethics the **manner** in which the topics are dealt with is subject to limitations which the researcher in charge at the agency must decide upon in the individual case. Any situations in an interview in which children may be expected to be startled or frightened or brought into an (induced) conflict with their legal representatives are inadmissible.

Particular care is needed with **product tests** with minors. This is not only true in a situation where the consent of a legal representative is required but also when the respondent has the cognitive faculty. **Information** about the intended test must be **supplied in advance**, in order not to undermine **bans of the legal representatives** (particularly concerning

foods and semi luxuries) which may exist. Products which are subject to **legal restrictions** concerning their distribution to minors must **not** be offered for testing even with the consent of a legal representative.

Though children are allowed to consume certain products, this in some cases is subject of criticism (e.g. sweets). If no legal representative is present (e.g. at recruiting) then it is advisable to ask before testing these products whether the child/adolescent is allowed or not to consume these at home. If a ban of the legal representatives exists then this must not be violated in a studio test either.

5. Recording and observation

For recording and observation of group discussions and qualitative interviews with children/adolescents the same rules apply in principle as with adults. These rules are described in the **“Guideline concerning Recording and Observation of Group Discussions and Qualitative Interviews”**.

6. Problems of liability

The legal liability for harms suffered by a participant in a study in the **premises** of the research agency (included rented studios) lies in principle with the research agency in whose name the invitation (to a test, interview or group discussion) was issued. Therefore studies of this kind should not be conducted without adequate safety precautions and insurance cover – as always.

Whether or not the liability of the agency conducting the research extends to **travel** to and from its premises must be determined from case to case. Independently of this, minors should be brought there and also taken home again by a legal representative; unless the legal representative of a child which is at least 11 years old has explicitly and responsibly given permission for the child to take part on its own. Such permission must be expressed to and recorded by the member of the research agency issuing the invitation. A corresponding statement made only by the child/adolescent is not sufficient.

7. Final provisions and disclaimer of liability

This guideline forms **part of the professional rules** that govern German market and social research, resulting as they do from the **law** and the **methodological standards**, but also from **common practice**. It always applies when scientific surveys among minors for the purposes of market and social research are carried out in Germany or from Germany. It therefore also applies when such studies are carried out from abroad in order to conduct scientific research in Germany.

The principles and procedures described in this guideline represent, inter alia, the result of weighing up the **personal rights of the data subjects** on the one hand, and the **right to conduct research**, together with the resulting methodological requirements, as well as the **right to obtain information** on the other. However, the issuers cannot guarantee indemnity. If the situation is weighed up at a later time or by other authorities, it cannot be ruled out that different or stricter standards may result regarding the procedures laid down.

June 1996 (revised July 2006)