



SUPPORT

FRAGILE INTERVIEWING SUPPORT HELPING ADVICE

CODE OF PRACTICE TO FACILITATE THE
PROVISION OF THERAPEUTIC SUPPORT TO
**CHILD WITNESSES IN
COURT PROCEEDINGS**

SUPPORT

CODE OF PRACTICE TO FACILITATE THE PROVISION OF THERAPEUTIC SUPPORT TO CHILD WITNESSES IN COURT PROCEEDINGS



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|FOREWORDS





Foreword by the Deputy Minister for Justice

The experience of the justice system by a child witness is a stressful and bewildering one. I want to make sure they do not suffer any further unnecessary stress and receive the support they need. This document contributes to the series of child witness support guidance which aims to improve support and reduce stress for children involved in legal proceedings.

This code of practice aims to make sure that standards of best practice are implemented consistently by all those involved with children and the law. It addresses the extremely important issue of the provision of therapeutic support for child witnesses. The code strikes an important balance. It highlights the importance of appropriate therapeutic support whenever the child needs this, as well as how best to provide this support without risking contaminating the child's evidence.

This document has benefited considerably from the input of those directly involved with children in the justice system. All of them said that the code needed to be workable for all. I am extremely grateful for the detailed and thoughtful contributions of all the agencies involved in drafting and developing this document. Their contribution to and support for the code have been crucial to achieving a balanced and workable document.

We have initiated a comprehensive programme of legislation and best practice to address the needs of victims and witnesses, particularly those who are especially vulnerable. I welcome this particular contribution and look forward to further initiatives with key agencies in the future.

A handwritten signature in black ink that reads "Hugh Henry". The signature is written in a cursive, flowing style.

HUGH HENRY, MSP

Deputy Minister for Justice



Foreword by the Solicitor General for Scotland

Where a child has been traumatised as a result of a criminal act, the provision of some form of therapeutic support may be extremely beneficial, whether or not court proceedings result. This guidance is an excellent addition to the Child Witness Support Pack and seeks to address, in very practical terms, the conflict between concerns that evidence may be contaminated and what is considered to be in the best interests of the child. It goes a long way to ensuring that children receive the support that they need, when they need it.

As with other guidance within the Child Witness Support series, this document demonstrates the collaborative approach that has been taken and should be seen as best practice. It emphasises that decisions on the provision of therapeutic support are the responsibility of the child's carers and that criminal justice agencies should restrict their involvement in this process to advising, where appropriate, on whether the proposed support is likely to have an adverse effect on any subsequent court proceedings. The aim of the guidance is therefore to clarify that therapeutic support should not be discouraged and to establish guidelines on how that support can be provided while avoiding the risk of contaminating the evidence.

A handwritten signature in black ink that reads "Elish Angiolini". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

ELISH ANGIOLINI, QC
Solicitor General for Scotland



Foreword by the Principal Reporter

The Scottish Children's Reporter Administration has a unique role in securing the welfare of vulnerable children and is strongly committed to the early provision of therapeutic support designed to alleviate distress and trauma experienced by child victims of abuse. We have welcomed this opportunity to address the complex issue of how the provision of therapeutic support relates to the delivery of the child's best evidence in court proceedings.

The Code is directed at all involved with the child in this context including legal agents, therapeutic support providers, the child, family members and carers, social workers, voluntary agency workers and others.

Forming part of a much wider programme of work designed to improve the experience of victims and witnesses in the court system, the Code in particular addresses previous uncertainties of therapeutic support providers and legal practitioners over whether therapeutic support could proceed when a court case was pending. In the past, urgent and necessary support was sometimes delayed in the belief that evidence would be contaminated during the therapeutic process.

The Code sets out best practice for all engaged with the child in these circumstances. It clarifies the respective responsibilities and roles of all involved in both therapeutic support and court proceedings, focussing on the twin aims of better communication between all relevant parties and ensuring that the child's welfare and therapeutic needs are placed firmly at the centre of decision-making.

ALAN MILLER

Principal Reporter

Scottish Children's Reporter Administration

|INTRODUCTION



INTRODUCTION

- 1 This code of practice aims:
 - To provide guidance on how therapeutic support can be provided to child witnesses in ways that avoid the risk of contaminating the evidence.
 - To establish best practice guidelines which can be implemented consistently throughout Scotland.
- 2 The principles of the code of practice are:
 - The child and/or those responsible for the welfare of the child are responsible for making the decision about the need for therapeutic support.
 - There should be an assumption by all those involved with child witnesses in legal proceedings that therapeutic support will not inevitably contaminate a child's evidence. However, at the same time there should be awareness that there can be risks of contamination related to certain types of therapeutic support or questioning.
 - It is acknowledged and accepted that the provision of therapeutic support can be beneficial to a child witness or victim, and it is not expected that this provision is withheld or advised against.
- 3 This guidance is aimed at all professionals involved with child witnesses in legal proceedings. It is especially relevant to those providing therapeutic support, Crown Office and Procurator Fiscal Service, Scottish Children's Reporter Administration, defence agents, the judiciary and the police. It is also relevant to other professionals coming into contact with children in legal proceedings including social workers, general practitioners, health visitors, paediatricians, teachers, educational psychologists and any voluntary agencies in contact with child witnesses and/or their carers.
- 4 The code of practice has been developed by a multi-agency steering group comprising representatives of ACPOS (Association of Chief Police Officers in Scotland), ADSW (Association of Directors of Social Work), Barnardo's, Children 1st, COPFS (Crown Office and Procurator Fiscal Service), Faculty of Advocates, Law Society of Scotland, NHS Fife (Centre for the Vulnerable Child, Fife Primary Care Division), NHS Lothian (Primary and Community Division), SCRA (Scottish Children's Reporter Administration) and the Scottish Executive. This group was set up as a subgroup of the Scottish Executive's Child Witness Support Implementation Group. The guidance was commissioned from Professor Amina Memon and Carole Hill at Aberdeen University. The development of the document has been based on extensive broad based consultation and, latterly, with a reference group representing networks of key practitioners. Appendix 1 contains further details of the members of the steering group and reference group.

INTRODUCTION

Definition of a Child Witness

- 5 In the context of this document, a child witness is defined as a child under the age of 16 who is giving evidence in court proceedings.¹ However, it is acknowledged that children up to the age of 18, who are under supervision orders, are protected by the children's hearing system and can also be very vulnerable. Child witnesses may or may not be victims of crime and they may be called to give evidence in criminal, civil or children's hearing court proceedings. Children can give evidence for the prosecution or defence in criminal trials and for any party in civil trials or children's hearing court proceedings. It should be noted that children who are victims of, or witnesses to, crime might not become child witnesses in court proceedings.

Background

- 6 The following code of practice seeks to implement recommendation 10 of the Report of the Lord Advocate's Working Group on Child Witness Support (1999). Recommendation 10 addresses the need to clarify the roles of those making decisions relating to therapy before court proceedings and recommended that:
- The Crown Office and Procurator Fiscal Service, Scottish Children's Reporter Administration, social work departments, health boards and child welfare organisations should, in consultation with the Law Society of Scotland and Faculty of Advocates, produce a code of practice addressing the provision of therapy before children give evidence.
 - The code should emphasise that decisions about the timing and need for therapy can only be taken by those responsible for the welfare of the child and that the interests of children in need of treatment are paramount.
 - The code should contain advice for therapists about how to avoid undermining children's credibility and reliability or influencing their memory of events or the account they give.

¹ The Vulnerable Witnesses (Scotland) Act 2004 defines a child witness as: any person who is under the age of 16 on the date of commencement of criminal or civil proceedings. The proceedings are considered to have commenced when the indictment or complaint is served on the accused in criminal proceedings and when the petition, summons, initial writ or other document initiating the proceedings is served in civil proceedings. In civil proceedings if the document is served on more than one person, the proceedings shall be taken to have commenced when the document is served on the first person on whom it is served.

- 7 Before the conclusion of criminal, civil or children's hearing court proceedings,² therapeutic support for child witnesses has sometimes been discouraged, even where it is considered necessary for the child's welfare. The fear that the child's evidence could be contaminated by such therapeutic support, and the proceedings prejudiced as a result, conflicts with the need to ensure that child witnesses are able to receive, as soon as possible, effective treatment to assist their recovery.
- 8 It is in the public interest, and in accordance with positive obligations under Articles 3 and 8 of the European Convention on Human Rights, that alleged crimes against children are properly investigated and, where appropriate, prosecuted in the criminal courts. In such actions, the interests of the child must be a primary consideration. In addition, all accused persons have the right to a fair trial. It is also crucial that child witnesses in children's hearing court proceedings are afforded the same consideration and that proceedings in this forum are fair and seen to be fair to all those with an interest.

Children's Rights

- 9 The UN Convention on the Rights of the Child states:
- Article 3. "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".
 - Article 12. "States Parties shall assure to the child, who is capable of forming his or her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child".
- 10 The Children (Scotland) Act 1995 states that:
- Section 16(1). "Where under or by virtue of this Part of this Act, a children's hearing decide, or a court determines, any matter with respect to a child the welfare of that child throughout his childhood shall be their or its paramount consideration".

² Court proceedings resulting from referrals to Children's Hearings in terms of Part II to the Children (Scotland) Act 1995.

INTRODUCTION

Context

- 11 This code has been developed within the context of many interlocking initiatives to improve support for child witnesses and victims. The Scottish Executive has been co-ordinating the implementation of all the recommendations of the Lord Advocate's Working Group on Child Witness Support which has resulted in other best practice guidance on joint investigative interviewing, court familiarisation visits and questioning children in court. In addition, the Vulnerable Witnesses (Scotland) Act 2004 will provide for greater support for child witnesses and victims including:
- Early identification of child witnesses to ensure that appropriate special measures, which they will be automatically entitled to, are used. These include the following:
 - Greater use of prior recorded statements
 - Use of a supporter
 - Taking evidence by a commissioner
 - Use of live television links
 - Use of a screen
- 12 Other provisions of the Act offering support are:
- A presumption that children under 12 in certain cases will not be required to attend court and will give evidence either through CCTV from another location or by evidence on commission
 - Banning the accused from conducting his own precognition and/or defence in any case involving sexual or violent crimes involving a child under 12
 - Abolishing dock identification of the accused where there has been a previous identification by the child
 - Allowing special measures to be used in civil cases and children's hearings court proceedings

- 13 As part of the Child Protection Reform Programme, the Scottish Executive launched a Charter for Protecting Children and Young People in 2004,³ which was developed in consultation with children, young people, parents, carers and practitioners. The children and young people involved spoke in detail about how they feel when they are unsafe or have been harmed and in need of help and protection. It is relevant to how all children should be responded to when they are in difficulties at various times in their lives. There are 13 statements and a set of 11 pledges. The Scottish Executive has also developed a multi agency Framework for Standards for child protection which builds on these Charter statements and the pledges made to deliver better, more joined up child focused services for vulnerable children and young people. The Framework is applicable to all agencies, staff and volunteers working with children and along with the Charter provides the overarching context for the reform programme and what is expected from services and the basis for reflecting on performance.

Document Outline

- 14 This code will:
- Clarify who is responsible for decision making on the provision of therapeutic support
 - Define types of therapeutic support and interventions
 - Explain the evidential issues
 - Outline best practice guidelines on:
 - How to provide therapeutic support without potentially contaminating evidence
 - Information sharing
 - Record keeping
 - Confidentiality.

3 Protecting Scotland's Children and Young People, Scottish Executive, March 2004
 Charter: <http://www.scotland.gov.uk/library5/education/ccel/pdf>
 Explanatory Booklet: <http://www.scotland.gov.uk/library5/education/pcyptc.pdf>
 Framework for Standards: <http://www.scotland.gov.uk/library5/education/pcypfs.pdf>

|DECISION MAKING



DECISION MAKING

- 15 The police, procurator fiscal, children's reporter or anyone else working with the witness in all legal proceedings cannot decide whether or not a child receives therapeutic support prior to or during court proceedings.
- 16 The interests of the child should be the paramount consideration in decisions about the provision of therapeutic support prior to and during court proceedings. Whether a child should receive therapeutic support is a decision that should be made by the child (if the child is of sufficient age and understanding) and/or those responsible for the welfare of the child as well as the therapeutic support provider.
- 17 Prosecution policy, as set out in Chapter 16 of the *Crown Office and Procurator Fiscal Service Book of Regulations*, states:

“16.37 General approach to child witness cases
Many adults find the experience of giving evidence stressful but children are considered to be particularly vulnerable and may find the process very difficult. This vulnerability entitles every child witness to special consideration within the criminal justice system.”

“16.52 Counselling
Where a child has been traumatised as a result of a criminal act, the provision of some form of counselling may be beneficial. Various different types of counselling can be provided by social workers, therapists, psychologists, etc. Decisions on the provision of counselling are the responsibility of the child's carers and the Procurator Fiscal does not have a locus other than to advise where appropriate on whether the proposed counselling is likely to have an adverse effect on any subsequent criminal proceedings, by for example “contaminating” the evidence or assisting the child to put the incident behind him, and to advise that the counsellor may be cited as a witness.

It is not anticipated that the Crown would generally wish to cite a counsellor, but the defence may wish to do so if they are suggesting that the witness has been coached. In such a case the precognition should include details of (a) the nature of the counselling, its purpose and its duration, and (b) the counsellor.”
- 18 There may even be instances where therapeutic support is required during a lengthy court hearing as outlined in the case study below.⁴

⁴ Where the case studies in this document are based on real cases, all names have been changed.

DECISION MAKING

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Case study: Provision of therapeutic support during the course of a lengthy proof

The Scottish Children's Reporter Administration encountered a situation where a 15-year-old girl, following disclosure of sexual abuse that led to children's hearing proceedings being taken, was admitted to a psychiatric hospital and subsequently to residential care with out-patient support from another local institution. The child required considerable therapeutic support.

During the course of the proof the child deteriorated emotionally partly as a consequence of court-related stress (in spite of considerable preparation and the presence in court of a supporter).

Whilst best practice would seek to ensure that proofs are not subject to repeated adjournments, on at least two occasions this case was adjourned precisely because of the child's difficulties in coping with the court appearances. Far from therapeutic support being withdrawn in these circumstances, it was required to assist the child back into court. In this particular case serious consideration was given to abandoning proceedings to protect the child's health; in the event the 15-year-old herself wished to proceed.

Referral and Assessment Procedures

- 19 A range of agencies and services provide therapeutic support for child witnesses, such as the NHS, social work services, educational services, voluntary organisations and individual counsellors. Child witnesses can be referred to these agencies through a variety of sources (e.g. social work, general practitioners, or the child's caregiver), although different agencies have varying practices and guidelines. Children can also self-refer to some agencies.
- 20 Agencies providing therapeutic support have different procedures in place for assessing the needs of child witnesses. Individuals conducting assessments should be aware of the risk of contaminating evidence through the questions they ask and of the risks associated with certain types of therapeutic support (see sections below).

Therapeutic Support Providers

- 21 A variety of professionals from a range of backgrounds can be involved in providing therapeutic support to child witnesses, including people working in the voluntary and statutory sectors. This guidance document cannot specify what training or qualifications an individual who provides therapeutic support should have, although it is strongly recommended that the best practice guidelines outlined in this document are followed.
- 22 Therapeutic support providers should be competent to deliver the interventions they provide and should have received generic training as well as some additional specialist training e.g. additional training in working with children.
- 23 Importantly, all professionals working with child witnesses, prior to or during court proceedings, should be familiar with this guidance and the guidance on *Interviewing Child Witnesses in Scotland* (Scottish Executive, 2003). It is the responsibility of those individuals providing therapeutic support to have knowledge of this guidance. The guidance will be widely disseminated across all relevant sectors and will also be available on the Scottish Executive web site.⁵ Organisations and professional bodies are encouraged to raise awareness of the guidance and to provide appropriate training.
- 24 Therapeutic support providers should also be provided with support and supervision to ensure good practice is followed.

⁵ <http://www.scotland.gov.uk/Topics/Justice/Criminal/18245/12291>

|THERAPEUTIC SUPPORT



THERAPEUTIC SUPPORT

What is Therapeutic Support?

- 25 The term “therapeutic support”, in the context of this guidance, refers to formal psychotherapy and counselling. It also includes other therapeutic activities that do not constitute formal psychotherapy or counselling but which may draw on the principles and skills of psychotherapy and counselling. A broad range of services, which include psychological, psychiatric, local authority social work and voluntary sector projects provide therapeutic support.
- 26 Therapeutic support may address a variety of issues that can arise from being a witness in civil, criminal or children’s hearing court proceedings or from being a victim of crime. These issues can include increasing self-esteem and confidence, reducing anxiety, depression, suicidal or self-injurious behaviour and improving peer and family relationships. Therapeutic support may also address any trauma associated with court proceedings, such as trauma as a result of witnessing a crime, being a victim of crime, or from being involved in a child custody dispute or any other civil proceeding.
- 27 There are a vast number of different approaches to the provision of therapeutic support, which are underpinned by different theoretical models and utilise different therapeutic intervention methods. It is out with the scope of this document to describe all the different approaches, however, Appendix 2 provides a summary of three core approaches (Cognitive-Behavioural, Psychodynamic and Person-Centred).
- 28 The type of intervention methods used can vary according to the theoretical approach. However, different approaches often use the same methods of intervention. For example, the use of play as a therapeutic technique can be used in a variety of approaches to facilitate engagement. In addition, some therapeutic support providers take an eclectic/integrated approach and use intervention methods derived from a variety of theoretical approaches.
- 29 The nature of the problem therapeutic support providers are addressing will also influence the type of intervention methods they use. For example, if the therapeutic support provider is working with problems the child is experiencing in the here-and-now such as low self-esteem or anxiety, the methods they use will be different than if they are working directly with the trauma a child has suffered. Some of the intervention methods that are utilised are detailed in Appendix 3.

THERAPEUTIC SUPPORT

- 30 In addition to the various intervention methods, the context in which therapeutic support takes place also varies. Therapeutic support can be provided on an individual basis or in a group. For example, the group can consist of individuals who are experiencing similar difficulties, or, in the case of family therapy, the group can consist of other family members (see below for some of the concerns about group work).
- 31 Well-controlled studies on the effectiveness of therapeutic support provided to children have been relatively sparse. This is due to the ethical and practical difficulties of conducting randomised controlled clinical trials with this population. However, a number of studies have recently demonstrated the effectiveness and benefits of various therapeutic interventions with children (for reviews see Ross & O'Carroll, 2004; Saywitz, Mannarino, Berliner & Cohen, 2000; Kazdin & Weisz, 1998).
- 32 Concerns about contamination of evidence, if therapeutic support is provided prior to court proceedings, have in some cases resulted in therapeutic support being delayed. This is of particular concern when the delay in court processes can exceed two years. If the intervention is delayed for too long, a child's symptoms can exacerbate or become chronic and resistant to treatment (Saywitz, Mannarino, Berliner & Cohen, 2000).
- 33 The child's well-being is of paramount consideration and, as such, the provision of therapeutic support should not be delayed until after the court proceedings. However, the nature of the therapeutic support to be provided should be considered carefully in order to avoid the risk of contaminating the evidence or the allegation that the witness has been coached (see below for further information).

|EVIDENTIAL ISSUES



EVIDENTIAL ISSUES

- 34 In criminal proceedings an accused person can only be convicted of a criminal offence on the basis of evidence that allows a judge or a jury to be satisfied, beyond reasonable doubt, that he/she is guilty. In children's hearing court proceedings facts relating to concerns about a child are established on the basis of evidence that allows a sheriff to be satisfied on a balance of probabilities (unless the facts relate to an offence committed by a child). These facts may name the person responsible for the acts or behaviour.
- 35 Evidence is that which tends to prove or disprove any fact or conclusion. In the context of these guidelines, evidence refers to any verbal, written or pictorial account of events given by a child, or given by an adult in the form of a hearsay account of what a child is alleged to have said, written or produced.
- 36 The tradition in the Scottish courts is largely an oral one. Great reliance is placed on the oral testimony of witnesses. The accuracy, credibility and reliability of each witness's evidence are tested under cross-examination. Cross-examination can, among other things, address the possibility that the evidence may have become contaminated during the provision of therapeutic support or that the witness was coached. The jury (in solemn proceedings), the judge (in summary proceedings) or the sheriff in children's hearing court proceedings decides on the weight to be attached to the evidence when assessing whether guilt or a fact has been proved.
- 37 Contamination, in the context of these guidelines, means any change in a child's recollection of events which comes about as a consequence of:
- Questioning by an adult, where such questioning contains misleading information, is in the form of leading questions, involves the repetition of questions already answered or indicates that previous answers might not have been believed, or
 - Discussing the events with other people in a group therapy situation.
- 38 Therapeutic support providers should also be aware of the risk of contamination of evidence by co-witnesses out with the group setting and should take steps, where reasonable, to manage co-witnesses within the whole therapeutic setting. If contamination of evidence appears to have taken place, the therapeutic support provider may be asked in court to explain why certain steps have not been taken. Should contamination of evidence be believed to have taken place, the court may have no option but to discount the testimony of the witness(es) involved.

- 39 Coaching means any activity carried out by an adult in relation to a child which involves the discussion of the questions which might be asked of the child and/or the rehearsal of the answers the child ought to provide in any proceedings in which that child might be a witness.
- 40 The possibility that evidence has been contaminated and/or the witness coached is of particular concern in relation to child witnesses. This is because children have been found to be disproportionately more vulnerable to suggestive influences than adults.⁶
- 41 What has taken place during therapeutic support sessions is only likely to become a matter of evidence if a new or as yet unreported incident, that can have a bearing on the legal matter under investigation, arises during the therapeutic support sessions or if there has been a change to the child's story or version of events.

6 Suggestibility is defined as the degree to which the storage, retrieval and reporting of events can be influenced by a range of factors such as the manner in which someone is questioned. A suggestible response may be the information acquired before or after an event, and may result from social as well as cognitive factors (Ceci and Bruck 1993). Some studies have found that young children are more suggestible than older children but other studies have found that both age groups are equally suggestible.

BEST PRACTICE GUIDELINES FOR THE PROVISION OF THERAPEUTIC SUPPORT TO CHILD WITNESSES INVOLVED IN COURT PROCEEDINGS



BEST PRACTICE GUIDELINES

- 42 This section outlines best practice guidelines for the provision of therapeutic support prior to, and during court proceedings. The guidelines are in place to reduce concerns about the reliability of any new disclosures arising during therapeutic support as well as concerns about the contamination of evidence through questioning around the allegations forming the basis of the charge or ground of referral.
- 43 Many of the points made below are based on existing good practice, also contained in the Child Witness Support Guidance Pack, in particular, the Interviewing Child Witnesses in Scotland (2003), and Questioning Children in Court (2003) documents.

Communication and Questioning Techniques

- 44 Regardless of the type of therapeutic intervention or approach, it is essential that therapeutic support providers use questioning techniques that do not influence what the child says or contaminate the evidence. Training in psychotherapy and counselling skills involves learning to ask open-ended questions and this practice is maintained on an ongoing basis.
- 45 Free narratives, when children give their own uninterrupted account of an experience, are the most reliable source of accurate and untainted information. When the child mentions a topic of concern, free narrative can be obtained by saying to the child “Would you like to talk about this?”. This question should be followed by a pause to allow the child to formulate their response. However, young children find free narrative more difficult than older children due to their developmental stage and may be less likely to spontaneously provide information. If this is the case and the therapeutic support provider believes it would be beneficial to explore the child’s concern further, facilitative prompts with appropriately timed pauses can be used.

Example: Facilitative prompts

- A neutral acknowledgement (“uh huh”)
- A “Would you like to tell me more”
- Repeat back the child’s last comment (Child: “My dad was cross. And then I got scared” (Pause) Interviewer: “You got scared.”)

BEST PRACTICE GUIDELINES

- 46** Eliciting a spontaneous account from young children can be difficult at times and therapeutic support providers may need to ask questions to encourage the child to expand on what has been said and to clarify ambiguities. Questions should ideally be built around what the child has said in the free narrative. There are four main types of questions: open-ended, specific, closed and leading.
- 47** Open-ended questions invite the child to give a detailed response and do not pressurise or lead the child into providing a particular answer.

Example: Open – ended questions

(Child: “I get upset a lot”)

“What things make you upset?”

(Wait for response)

“What do you do when that happens?”

(Wait for response)

- 48** Specific questions probe for clarification of something the child has previously mentioned.

Example: Specific questions

- What was it that made you scared?
- What was your Dad cross about?

- 49** Closed questions provide the child with a limited number of options usually “yes”, “no”, or “don’t know”. Such questions can produce less accurate information because children are less likely to say, “I don’t know” to a closed question and are more likely to guess the answer they should give. Sometimes a child will provide a response to a yes/no question or choose one of two alternatives simply to please the therapeutic support provider. This can result in the child not being able to express what they really feel.

Example: Closed questions

- Was anyone else in the house at the time?
- Did you tell anyone you were scared?

- 50 Leading questions suggest the response required. In the examples provided below, the therapeutic support provider is assuming that the child's father often gets cross and that the child was scared because her Dad was cross. Such questions can put pressure on the child to go along with what the therapeutic support provider is suggesting. Leading questions should be avoided in order to prevent this happening and to ensure that a child's report does not get contaminated with a suggestion made by the therapeutic support provider.

Example: Leading and misleading questions

- Does your Dad often get cross with you?
- Did you feel scared because your Dad was cross?

- 51 A distinction can be made between leading questions and misleading questions. Leading questions can lead a child to give a correct response if they are based on information that the child has provided. For example, if a child has said that her Dad gets cross with her, the question asking does this often happen could result in a correct answer. However, misleading questions often lead a child to give an incorrect response. For example, the question did you feel scared could be misleading if the child has not reported how they felt. If the child did not feel scared because her Dad was cross, an affirmative response to the question would be a false response. The problem of using such questions is that the therapeutic support provider rarely knows the answer to the question and therefore cannot be sure whether they have asked a leading or a misleading question.
- 52 If it is necessary to ask a child a question about the topic of concern then an open-ended question is advised. So, in the example above, an open-ended question would ask the child how they feel when their Dad gets cross. Research has clearly established that people tend to provide the most accurate answers (i.e., where the proportion of correct information is highest) to open questions.
- 53 Open-ended questions are typically asking the child what they can remember, while closed questions are assuming the child can remember and are therefore placing more demands on the child to give a response. Not only do open-ended questions result in more detailed and accurate responses, they are least likely to be challenged in court.
- 54 Repeating questions is not advisable as the child may come to believe that their first answer was wrong, and consequently alter their response to something they think the therapeutic support provider wants to hear.

BEST PRACTICE GUIDELINES

- 55 Using the right type of questions is essential in relation to responding to a child recounting a traumatic/abusive event, interpreting, or hypothesis testing.

Recounting of Traumatic/Abusive Event

- 56 Many children will never recount details of the abuse or trauma and the purpose of therapeutic support is to help them process their feelings about what happened rather than the details of the event. Although it may not be critical for a child to remember and talk about a traumatic or abusive event for therapeutic support to be effective, some children will want to, or indeed need to, talk about what has happened to them. Therapeutic support providers should use their clinical judgment to decide whether or not to engage the child in trauma or abuse specific interventions. However, they should be aware of the potential risks of contaminating the child's evidence at all times.
- 57 If a child does recount an event, the therapeutic support provider should be careful to ask open-ended, non-leading questions. Poor questioning techniques, used during the process of discussing a memory with the child, are likely to undermine the credibility of the child if they are subsequently called as a witness in a court proceeding because they can permanently distort the child's memory for the event. Extensive research has shown that our memories are fragile and subject to influence (Loftus, 2004).
- 58 Sometimes when recounting an abusive or traumatic experience the child wants the therapeutic support provider to explain to them why it has happened to them. This is a situation where a child is expecting an interpretation from the therapeutic support provider. At this stage it is fine for the therapeutic support provider to listen and acknowledge what the child is saying but they should be cautious not to present their view of the situation as this could contaminate the child's memory.
- 59 Children often blame themselves for what happened to them. Whilst it is important for therapeutic support providers not to present their view of the situation, the child should be reassured that they are not to blame. An example of how this can be done is given below.

Example: Discussing blame

“So it sounds as if you think you are to blame. But I don’t think it’s your fault. I think the job of a grown-up is to look after a child. Grown-ups shouldn’t do anything that harms children.”

The following case study illustrates how blame was discussed with an 8-year-old girl.

Case study: Discussing blame

When working with an 8-year-old girl, the therapeutic support provider explored the child’s current anxieties. The girl indicated that she had been to blame for what had happened to her.

The therapeutic support provider talked to the girl about the fact that grown-ups are responsible for what they do. She explained that it is hard for children to go against adult wishes or to say when they feel uncomfortable or upset. The therapeutic support provider then gave an example of an adult telling a child to do something, using dollhouse figures. The girl could then easily see that the adult figures were bigger in size and had greater authority.

Working in this visual, distanced way helped the girl realise that children have little power over adults’ actions and little power to change things.

Interpreting

- 60 Rather than making an interpretation of a child’s non-verbal behaviour which is direct or specific (e.g. “Are you sitting in the corner because you’re scared I’ll hurt you like your Dad did?”), therapeutic support providers should ask the child why they are displaying certain non-verbal behaviours using open-ended questions, or offer cautious interpretations which are broad and do not overlap with specific allegations or assumptions.

BEST PRACTICE GUIDELINES

Hypothesis Testing

- 61 Therapeutic support providers often use hypothesis testing to help inform their formulation, which in turn informs the intervention chosen. However, hypothesis testing should not be used to explore hypotheses about what happened during an abusive or traumatic event. One of the problems of hypothesis testing or relying on one's own hunches or theories when questioning a child about what happened is that of *confirmation bias*. Confirmation bias is 'the seeking or interpreting of information that supports one's beliefs or expectations. This can involve both seeking information that confirms a belief, whilst at the same time not seeking, or even avoiding, information that disconfirms the belief (Nickerson, 1998).' This has the potential to distort memory and/or lead a child to selectively remember or report some details and not others. This is particularly important in a therapeutic context where there are demands and pressures to resolve issues and find an explanation for why things have gone wrong. The child in this situation is likely to see a power differential between themselves and the therapeutic support provider, however informal the context is.

|TYPES OF THERAPEUTIC INTERVENTIONS



TYPES OF THERAPEUTIC INTERVENTIONS

Play/Art/Writing Intervention Methods

- 62 Children can convey thoughts and feelings they cannot express in speech through play, art or writing (see Appendix 3). A certain amount of cautious interpretation is necessary for therapeutic support providers to make sense of the events or emotions conveyed by the child. However, caution should be employed when the interpretation is fed back to the child or others involved in the care of the child. This will be especially pertinent if the intervention method is being used to deal with the abusive or traumatic experience itself, rather than issues in the here-and-now.

Hypnosis

- 63 Therapeutic support providers should never use hypnosis prior to or during court proceedings for matters related to those court proceedings. The reason for this is that it can increase the possibility that false memories (pseudomemories) will be reported sometimes with a high degree of confidence (Dinges, Whitehouse, Orne, Powell, Orne & Erdelyi, 1992).

Group Therapy

- 64 Group therapy that does not focus on the abusive or traumatic event and includes a mix of presenting difficulties and client groups can be beneficial. Similarly, family therapy that focuses on helping the family to understand what has happened rather than focusing on the abusive or traumatic events themselves can be valuable. However, group/family therapy that focuses on the abusive or traumatic event and includes other witnesses or parties involved in an investigation should be avoided.
- 65 False reports of non-experienced events can arise from children's conversations with their peers, even in the absence of exposure to misleading information from adults (Principe & Ceci, 2002). When remembering in a group, one person's memory can be influenced by what another person says. The information obtained during the process of discussing a memory with another person could permanently distort an individual's memory of an event because our memories are fragile and subject to influence. This is known in the psychological research literature as *Memory Conformity* (Gabbert, Memon & Allan, 2003).
- 66 Prior to court proceedings, group therapy that focuses on details of the traumatic or abusive incident should not be undertaken due to the potential contaminating influence of peers. When there is some uncertainty about the event in question, children may be prone to make memory errors if they confuse mental images inspired by another child's account with their own memories generated during an actual experience.

|INFORMATION SHARING



INFORMATION SHARING

- 67 The Crown Office and Procurator Fiscal Service is seeking to improve communication with victims and vulnerable witnesses through its Victim Information and Advice service (VIA), which is now established in every fiscal area. The function of VIA is to keep victims and vulnerable witnesses informed about the progress of their case as well as general information on legal proceedings. They can also be a contact to pass on information and concerns to the procurator fiscal, or to refer victims and vulnerable witnesses to other agencies for counselling and support. VIA works closely with other statutory agencies (the police, Scottish Court Service) and also with other voluntary agencies (Victim Support's community or court based witness services, Women's Aid). This means the child and/or the child's carer will be informed proactively about the progress of their case including dates and arrangements for court and pre court familiarisation visits. A list of local VIA and procurator fiscal contacts is contained in Appendix 4.
- 68 The Scottish Children's Reporter Administration is committed to assisting vulnerable witnesses and victims by providing appropriate information in an accessible form. It is clearly accepted that the child witness and the child's carers have a right to be properly informed about children's hearing court proceedings and as much as possible about the progress of their particular case. The reporter will discuss with the child and carers whether a court appearance is necessary and whether special measures would be appropriate to allow the child's best evidence to be given. The reporter will discuss these measures with the child and carer in advance of any court appearance. The Administration is committed to the principles of openness, accessibility and support. A list of SCRA offices can be found at Appendix 5 in order to assist communication between therapeutic support providers and the relevant children's reporter.
- 69 Therapeutic support providers can ask the children's reporter, the procurator fiscal or the police whether court proceedings are in prospect for a particular child. In turn, the children's reporter or the procurator fiscal would like to be advised if a decision has been taken to provide therapeutic support. It is therefore recommended as good practice that the therapeutic support provider, if they are aware that the child is to give evidence, inform VIA on behalf of the procurator fiscal, or the children's reporter that therapeutic support is being provided, as well as any particular difficulties or anxieties a child may have relating to the legal proceedings.
- 70 Therapeutic support providers giving this information to other parties should ensure that the child and/or the child's carer is informed of this (see section on confidentiality below). In addition, a therapeutic support provider may find information about the outcome of concluded court proceedings helpful. The

child and the child's carer should also have information from VIA or the children's reporter on the imminence or outcome of a case and can, of course, let the therapeutic support provider know about this.

- 71 Therapeutic support providers will have variable background information about a child, depending upon how or from where the case is referred. If, for example, a child protection unit or a social work department have referred the child, there may be general background knowledge of a disclosure that has been made by that child. If a general practitioner has referred the child, there may be less information. It is not expected that the therapeutic support provider will have details of the charge(s) or of the investigative interview from the police, procurator fiscal or children's reporter. Indeed, it is recommended that there is less risk of contamination if the therapeutic support provider is starting with an open mind and only broad background knowledge of any disclosure or the general nature of the charges. Regardless of what background information the therapeutic support provider has or finds it beneficial to seek, it should be stressed that the role of the therapeutic support provider is to provide support and it is not expected that there is a fact-finding or investigative role.
- 72 Within this context of variable background knowledge, if it is known that fresh disclosures have been made during a therapeutic support session, or there has been a change to the story or version of events, the therapeutic support provider should report these to the police. The police will then follow child protection guidelines and will contact social work services to agree whether any further investigation or action is required. The police will also contact other relevant authorities including the children's reporter or procurator fiscal. Disclosures may be verbal, or, for example in younger children, may be through actions. If the therapeutic support provider is in any doubt as to whether fresh disclosures have been made, they should discuss the matter with the police or social work.
- 73 If these new allegations or disclosures become an issue in subsequent court proceedings, the therapeutic support provider may be asked to give evidence concerning the circumstances in which the disclosures were made. This could result in either side in the process seeking to test the reliability of that evidence and address the possibility that evidence may have become contaminated during therapeutic support. If there have been therapeutic support sessions prior to the witness giving evidence, the defence may want to enquire into what happened at those sessions with a view to establishing whether the witness's description of events or of the impact of events on them has changed.

|RECORD KEEPING



RECORD KEEPING

- 74** If the therapeutic support provider is asked to give evidence concerning the circumstances in which the disclosures were made, the first source of support for the reliability of recall would be the notes maintained by the therapeutic support provider of the therapeutic support sessions. If the therapeutic support provider's notes contain only statements of the child, this may lead to a line of questioning aimed at identifying whether any inappropriate questioning strategies or suggestions from the therapist influenced the child's responses. Comprehensive notes, which record questions asked, as well as responses given, together with details of any specific therapeutic interventions would best prevent this line of inquiry. The absence of such notes, or their quality, might be a matter of comment to the jury/court as to the reliability of the evidence being given.
- 75** Although record keeping is a standard professional practice, the detail contained in records of therapeutic support sessions is quite varied. Therapeutic support providers should keep a detailed record of any disclosures, the discussions that led up to the disclosure and should include the questions asked of a child, as well as an account of what the child has said. Records should also be made of the child's non-verbal behaviour. In addition, any art or written work produced by the child should be named and dated as this may also be cited as evidence if substantive to fresh disclosures. The recording should be made immediately after the session is finished. Some research (e.g. Warren and Woodall, 1999) has shown that even the most experienced interviewers and practitioners tend to misremember the questions when questioned immediately after the interview. Thus, if questions are asked, a note should be made at the time they are asked, as well as the response. In other words, therapeutic support providers should not rely on their memory.

Example: Good practice in record keeping

An accurate record would include the date, time and duration of the therapeutic support session; the child's remarks and the questions that prompted these (in the exact words used); non-verbal behaviour (the child's actions, e.g. "He grabbed me here (pointing to body part)"; and any art or written work produced by the child during the session (named and dated).

- 76** If a therapeutic support provider is called as a witness in such a situation, their notes can be recovered. In criminal and civil court proceedings, if an issue of confidentiality arises, or is claimed, the court can be asked to rule on this. Normally, if a therapeutic support provider were to report disclosures, the Crown would seek access to notes of the therapeutic support session. The Scottish system of criminal procedure proceeds on the basis that the

RECORD KEEPING

Crown has a duty at any time to disclose to the defence information in their possession, which would tend to exculpate (exonerate) the accused. If such notes were therefore in the hands of the Crown, there would be an obligation on the Crown to disclose them to the defence. The duty of the Crown is not simply to put forward witnesses who support the Crown case but to include in the list other witnesses whose testimony may not be in line with the Crown case but which may have a bearing on the innocence of the accused. This can help the court to form a balanced view of the evidence relating to the incident in question.

- 77 If the notes, however, are not in the hands of the Crown, the defence are entitled to apply to the court for an order for recovery of them. The Crown will respond to specific requests from the defence if satisfied that the production of the particular documents or other items would be likely to be of assistance to the proper preparation or presentation of the accused's defence. The accused's legal representative will need to show how the documents relate to the charge or charges and the proposed defence to it or them. The Law Society of Scotland's Code of Conduct for Criminal Work is that a solicitor should not give copies of precognitions/statements or documents to an accused, unless there are exceptional circumstances justifying a departure from this general practice.
- 78 The Crown will respond sympathetically if a request arises as a result of persons being unable to remember the events in question or refusing to co-operate or whom the defence has been unable to locate. The duty of disclosure relates not only to documents, but also to information, which need not be in written form.
- 79 Paragraphs 74 - 78 above also apply substantially to the children's hearing court proceedings. On most occasions matters relating to disclosure of information to the defence are resolved by agreement. The reporter will seek to make all relevant material available to the defence, having consulted with the therapeutic support provider. Any party to the proceedings including the reporter, defence agent or safeguarder, may request records of the therapeutic support sessions. If the therapeutic support provider has concerns about making relevant material available, they may discuss the matter with the reporter. If the therapeutic support provider refuses to make the relevant material available, any party is entitled to cite the therapeutic support provider as a witness in the case. Their notes can also be recovered, subject to the same safeguards identified in paragraph 77. The sheriff in the case would rule on issues of confidentiality.

- 80 In criminal, civil and children's hearing court proceedings, if there is a disagreement as to the relevance of the therapeutic support session notes to the court proceedings, an independent commissioner can be appointed to go through the records and decide what information, if any, is relevant to the court proceedings. A commissioner is an independent advocate or solicitor who will provide a report to the court about what is contained in the records. It is not the role of the commissioner to provide advice to the parties about confidentiality. The case study below illustrates this procedure.

Case study: Recovery of records from therapeutic support sessions

Jane was subject to children's hearing court proceedings. The content of records of sessions with a psychiatric nurse became an issue before the proof commenced. The defence argued in favour of total disclosure; the reporter argued for more restricted use. The sheriff appointed an independent commissioner to read through the records and identify what was relevant to the case. In the event the restricted disclosure applied and confidentiality was partly preserved. (The commissioner of course was empowered by the court to read everything so to that extent confidentiality was breached).

|CONFIDENTIALITY



CONFIDENTIALITY

- 81** Children and their caregivers should be advised of the limits of confidentiality before they agree to engage in therapeutic support. However, discussions about confidentiality need to be ongoing rather than only at the start of therapeutic support. It should be made clear to the child that the information they give could be disclosed to other professional bodies if the therapeutic support provider believes the child or other children are at risk, or if other professional bodies seek this information. However, the child should be assured that if other professional bodies seek this information, disclosure will only occur if a relevant authority requests it and the request is justified. This should include informing them that the court may request the therapeutic support session records. However, the child should be given assurances that, unless a court decides that the request is justified, the therapeutic support session records will not be disclosed. An example of how the issue of confidentiality can be communicated to a child witness is given below.

Example: Explaining confidentiality to a child witness

“When we meet I hope you’ll feel you can talk about things that might be worrying you. I have to write things down because what we talk about is really important. Sometimes if I’m worried that you or other children aren’t really safe I’ll have to let people know. There are some “Child Protection” rules I have to follow, so I might have to talk to police or social work or people at the court and even shown them my notes. I would tell you if that needs to happen.”

- 82** This is in line with local child protection guidelines and the Child Protection Reform Programme, including the recently published Charter and Framework for Standards. Each agency will have their own information sharing protocols. The Framework for Standards on Information Sharing and the Department of Health leaflet and brief guidance on Sharing Information about Children at Risk⁷ are outlined at appendix 6.
- 83** The case study below seeks to illustrate best practice in relation to many of the issues raised in this guidance.

⁷ Sharing Information about Children at Risk: A guide to good practice, Scottish Executive, 2004, <http://www.scotland.gov.uk/library5/health/sicr.pdf>

CONFIDENTIALITY

BEST PRACTICE CASE STUDY

Stacey aged 12.

Family composition: Sally Smith - Mother
Billy Jones - Stepfather
Stacey (12)
Sean (8)
No contact with natural father

Stacey Smith disclosed to her mother that her stepfather had sexually abused her over a three-year period. Mrs Smith contacted the police and a joint police and social work investigation was initiated. A joint paediatric/forensic examination was arranged, but Stacey refused to be examined. The stepfather was arrested and charged with sexual offences against Stacey. The procurator fiscal referred Stacey to the local Victim Information and Advice Service (VIA). He appeared in court and was released with bail conditions not to approach Stacey or her mother.

Following the disclosure, Stacey and her mother were extremely distressed, with Stacey displaying an increasing number of emotional and behavioural difficulties. Mrs Smith contacted the social work department. The social worker involved with Stacey referred her to a local child sexual abuse clinic for therapeutic support. The referral included general background information about the family, the allegations and the other professionals involved. It was decided that it would be helpful to have further information regarding the general nature of the charges and the progression of the prosecution process.

With the family's explicit permission, the therapeutic support provider contacted the local VIA office.

Stacey and her mum attended the clinic, where a general developmental history was gathered. Further to this, information regarding previous and current functioning, physical symptoms and recent changes to her behaviour were also obtained. The family's strengths and ability to support Stacey was also assessed. It became apparent that Stacey was blaming herself for the abuse. She was also highly anxious with significant symptoms including low mood, poor concentration and difficulties getting to sleep. She was irritable, emotionally withdrawn, struggling with friendships in school, and generally lacking in confidence. In addition, she was extremely worried about giving evidence in court and having to face her stepfather.

Mrs Smith was feeling overwhelmed with shock and guilt and was feeling unsure about the best way to support Stacey.

Following discussion with Stacey and her mum, it was agreed that individual therapeutic support would be offered to both of them. The support offered to Mrs Smith included space to discuss the impact of the disclosure and subsequent investigation on her and the family. It also included identifying strategies she could use to help Stacey, for example, helping her establish a better bedtime routine, reassuring Stacey and trying her best to keep a semblance of calm and stability within the household. It was also suggested that she informed Stacey's school in order to increase the support network for her.

The main focus of the therapeutic support with Stacey was to help her manage her anxiety and help her feel more in control. Anxiety management included relaxation techniques, discussion pertaining to the impact of the sexual abuse upon her and her family, and ways in which she could start to feel better about herself. It was important that Stacey was encouraged to talk about any of her worries, past or present.

During one session Stacey informed the therapeutic support provider that she had seen her stepfather in the street. Since seeing him she had been upset and having nightmares. During the discussion regarding this, she disclosed that her stepfather had sexual intercourse with her in her bed on a number of occasions. The charges that the accused was facing did not include penetrative sex. Stacey was listened to, while being careful not to ask any direct, closed or leading questions, and reassured that she was not in any trouble. She was also told that, as this was new information, it would be shared with police and social work.

As per the child protection guidelines, police and social work colleagues were informed. Notes from the session were written, signed and dated immediately after the session ended. A statement and a copy of these notes were passed on to the police. A further joint police and social work interview of Stacey subsequently took place.

Following the joint interview, the new information was reported to the procurator fiscal along with a copy of the session notes.

CONFIDENTIALITY

As the court date became nearer, Stacy became increasingly preoccupied about giving evidence in court and scared about being in the same room as her stepfather. VIA was informed of this and they arranged, along with the Witness Service, for Stacey to visit the court, accompanied by her mother. It was clear from this visit that Stacey was overwhelmed by anxiety at being in the courtroom and would struggle to give coherent evidence in open court.

Stacy's concerns were passed to the procurator fiscal dealing with her case and, as a result, the therapeutic support provider was asked to provide a report in support of an application for Stacy to give her evidence via a live television link. The application included information about Stacy, her ability to give evidence and her views on giving evidence in this way.

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|APPENDICES



APPENDIX 1

STEERING GROUP MEMBERS

Scottish Executive	Susan Bolt Linda de Caestecker Linda Hutton Wilma Smith
Crown Office and Procurator Fiscal Service	Lindsey Anderson
Scottish Children's Reporter Administration	Frances Roberts
Association of Directors of Social Work	Moirra McKinnon
Association of Chief Police Officers in Scotland	Dougie Gray
NHS Lothian, Primary and Community Division	Julie Hendry Eleanor Leplat Gillian Moreton
NHS Fife, Fife Primary Care Division	Nick Coote
Barnardo's	Janet Flood
Children 1st	Margaret McKay
Law Society of Scotland	Michael Carlin
Faculty of Advocates	Petra Collins

REFERENCE GROUP

COSCA (Counselling and Psychotherapy in Scotland)
 Child Sexual Abuse Network
 Scottish Women's Aid/Victims Forum
 Scottish Rape Crisis Network
 Victim Support Scotland
 Child Protection Committees

APPENDIX 2

OVERVIEW OF THE MAIN APPROACHES TAKEN IN PROVIDING THERAPEUTIC SUPPORT

Approach	Summary of Approach
Cognitive – Behavioural	Cognitive-behavioural therapy (CBT) is a psychological approach, based on scientific principles, which research has shown to be effective for a wide range of problems. CBT is used to help promote positive change in individuals, to help alleviate emotional distress, and to address a myriad of psycho/social/behavioural issues (RSM Psychology Centre, 2002). Clients and therapists work together to develop a shared view and understanding of the presenting difficulties often in terms of the relationship between thoughts, feelings and behaviours. This shared understanding then leads to individualised therapy goals and interventions that are continually monitored and evaluated.
Psychodynamic	Psychodynamic approaches are based on the theory that personality development, current thoughts, feelings and patterns of relating are greatly influenced by unconscious processes and early experience. Therapy focuses on helping the client gain an insight into past and present experience through the collaborative exploration of thoughts, feelings, memories, fantasies, dreams, artwork or play. The therapeutic relationship can be an opportunity to work through relationship conflicts from the past, in the here-and-now.

APPENDIX 2

Person – Centred

Person – centred approaches view clients as having the ability to make their own choices, the ability to control their future and as having self-healing capacities. The therapist's role is to place more autonomy in the hands of the client so that they can heal themselves. Person – centred approaches generally focus on how the client is feeling, rather than why they are feeling a certain way, and therefore often concentrate on difficulties in the here-and-now. Therapists working from a person – centred approach see the use of the core conditions of empathy, unconditional positive regard and genuineness as being the key agents for change within the therapeutic relationship and tend to be less directive than other approaches. They use open-ended responses, reflective listening and tentative interpretations to promote client self-understanding, acceptance and actualisation.

APPENDIX 3

OVERVIEW OF SOME INTERVENTION METHODS USED IN THERAPEUTIC SETTINGS

Intervention Method	Overview of Intervention Method
Play/Art/Writing	A variety of intervention methods, such as play, writing and drawing, can be used to overcome the difficulties that some children may experience in verbal communication of their thoughts and feelings. These intervention methods can be used to address problems the child is experiencing in the here-and-now. They can also be used to address the trauma a child has experienced. Toys and other props may be used to allow the child to symbolise or recreate elements of the trauma so that it can be processed and integrated. A certain amount of interpretation may be made by the therapist, but may not need to be shared with the child.
Hypnosis	Clinical hypnosis is a procedure that involves the therapist suggesting that the client experiences changes in perceptions, thoughts, feelings or behaviours. Hypnosis can be used to decrease anxiety and fear responses triggered by a traumatic event. However, hypnosis should not be used to help clients remember things as it is sometimes associated with the emergence of false memories.
Exposure Work	Fearful thoughts about a traumatic experience and reminders of the traumatic experience often induce anxiety or avoidant behaviours. Repeated exposure to these thoughts and reminders can diminish the anxiety and avoidant behaviours. This can be achieved through imaginal exposure where the child recollects and discusses their traumatic memories or through in vivo exposure where the child is exposed to harmless but distressing trauma-related stimuli.

**Eye Movement
Desensitisation and
Reprocessing (EMDR)**

EMDR is considered to be an important tool for decreasing posttraumatic stress reactions. During EMDR the child is asked to focus on trauma-related memories, cognitions, emotions and physical sensations. While doing this, the child is asked to track, with their eyes, the side-to-side hand movements of the therapist. Other bilateral stimulation, such as hand taps, may be easier for young children. There is evidence to suggest that this process is effective in processing traumatic memories and relieving symptoms quicker than other approaches. This will take place over several sessions until symptoms have reduced. It is largely a non-verbal intervention and does not rely on the child describing traumatic memories in detail. It is not a form of hypnotism and does not involve changes in consciousness.

APPENDIX 4

CROWN OFFICE AND PROCURATOR FISCAL SERVICE DIRECTORY INCLUDING VIA CONTACTS

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
Aberdeen	01224- 585111	Area PF District PF	Atholl House 84-88 Guild Street AB11 6QA DX No. AB67	01224- 585550
Airdrie	01236- 747027	District PF	Sheriff Court 87A Graham Street ML6 6EE DX No. 570417	01236- 747677
Alloa	01259- 214561/ 721736		Sheriff Court FK10 1HR DX No. 560437	01259- 219577
Arbroath	01241- 876555	District PF	Aitken House 15 Hill Street DD1 1BR DX No. 530443	01241- 430052
Ayr	01292- 267481/ 260748	District PF	29 Miller Road KA7 2AX DX No. AY21	01292- 611415
Banff	01261- 812131/ 815318	District PF	Sheriff Court AB4 1AU DX No. 521326	01261- 818282
Campbeltown	01586- 553383	District PF	Sheriff Court PA28 6AN	01586- 551180
Cupar	01334- 654991	District PF	Sheriff Court KY15 4LS DX No. 560553	01334- 656041
Dingwall	01349- 862122/ 864058	District PF	Sheriff Court Ferry Road IV15 9QX DX No. 520587	01349- 862715
Dumbarton	01389- 730972	District PF	St Mary's Way G82 1NL DX No. 500598	01389- 731182
Dumfries	01387- 263034	Area PF District PF	44 Buccleuch Street DG1 2AP DX No. 580628	01387- 259356

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
Dundee	01382- 227535	Area PF District PF	Caledonian House Greenmarket DD1 1QX DX No. DD35	01382- 202719
Dunfermline	01383- 723688	District PF	Sheriff Court Carnegie Drive KY12 7HW DX No. DF19	01383- 624828
Dunoon	01369- 702292	District PF	Sheriff Court PA23 8BQ DX No. 591657	01369- 702191
Duns	01361- 882345	Scottish Borders PF	Sheriff Court TD11 3DU DX No. 581205	01361- 882060
Edinburgh	0131-226 4962	Area Fiscal District PF	29 Chambers Street EH1 1LD DX No. 550315 Edinburgh 37	0131-220 4669
Elgin	01343- 547133/ 543594	District PF	Sheriff Court IV30 1BU DX No. 520661	01343- 544146
Falkirk	01324- 638396	District PF	Mansionhouse Road Camelon FK1 4LW DX No. FA11	01324- 628841
Forfar	01307- 463296	District PF	Sheriff Court DD8 3LA DX No. 530681	01307- 463589
Fort William	01397- 703874	District PF	Sheriff Court PH33 6BR DX No. 531404	01397- 701476
Glasgow	0141-429 5566	Area PF	10 Ballater Street, G5 9PS DX No. 501557	0141-418 5177

APPENDIX 4

CROWN OFFICE AND PROCURATOR FISCAL SERVICE DIRECTORY INCLUDING VIA CONTACTS – cont

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
Greenock/ Rothesay	01475- 728316	District PF	Sheriff Court Nelson Street PA15 1TR DX No. GR20	01475- 724488
Haddington	01620- 825761	Interim District PF	15 Lodge Street EH41 3DX DX No. 540735	01620- 822940
Hamilton	01698- 201267	Area Fiscal District PF	Cameronian House 3/5 Almada Street ML3 0HG DX No. HA7	01698- 201449
Inverness	01463- 224858	Area PF District PF	2 Baron Taylor's Street IV1 1QL DX No. IN26	01463- 711187
Jedburgh	01835- 862345	Scottish Borders PF	Sheriff Court TD8 6AR DX No. 581221	01835- 864514
Kilmarnock	01563- 536211	Area PF District PF	St Marnock Street KA1 1DZ DX No. KK17	01563- 571786
Kirkcaldy	01592- 268661	Area PF District PF	Wing D, Carlyle House Carlyle Road KY1 1DB DX No. KY18	01592- 261120
Kirkcudbright	01557- 331403	District PF	TEMPORARILY CLOSED - REDIRECT TO DUMFRIES OFFICE Sheriff Court DG6 4JW DX No. 580814	01557- 331764
Kirkwall	01856- 873273	District PF	Sheriff Court KW15 1PD	01856- 870505
Lanark	01555- 661669	District PF	Sheriff Court House 24 Hope Street ML11 7NE DX No. 570835	01555- 663716

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
Lerwick	01595-692808	District PF	Sheriff Court ZE1 0HD	01595-695152
Linlithgow	01506-844556	District PF	Stuart House 181/201 High Street EH49 7EN DX No. 570884	01506-670102
Lochmaddy	01876-500243	(Dingwall) District PF	Sheriff Court PA82 5AE	01876-500432
Oban	01631-564088/ 564921	District PF	Third Floor, Boswell House, Argyll Square PA34 4BD DX No. OB9	01631-570352
Paisley	0141-887 5225	Area PF District PF	1 Love Street PA3 2DA DX No. PA50	0141-887 6172
Perth	01738-637272	District PF	82 Tay Street PH2 8NN DX No. PE31	01738-626673
Peterhead	01779-476628	District PF	70 St Peter Street AB4 6QD DX No. 521375	01779-490284
Portree	01478-612510	(Dingwall) District PF	Sheriff Court IV51 9EH	01478-613499
Selkirk/ Peebles	01750-20345	Scottish Borders PF	Sheriff Court TD7 4LE DX No. 581013	01750-21113
Stirling	01786-462021	Area Fiscal District Fiscal	Carseview House Castle Business Park FK9 4AW DX No. ST16	01786-446823
Stonehaven	01569-762048	District PF	Sheriff Court AB3 2JD DX No. 521026	01569-765614
Stornoway	01851-703439	District PF	Sheriff Court Buildings Lewis Street HS1 2JF	01851-704618

APPENDIX 4

CROWN OFFICE AND PROCURATOR FISCAL SERVICE DIRECTORY INCLUDING VIA CONTACTS – cont

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
Stranraer	01776-704321	District PF	Sheriff Court DG9 7AA DX No. 581259	01776-889465
Tain	01862-892472	District PF	11 Stafford Street IV19 1BP	01862-892883
Wick	01955-602197	District PF	Sheriff Court KW1 4AJ	01955-606507
High Court Unit, Edinburgh	0131 240 6941/ 3	Head of High Court Unit Edinburgh	High Court of Justiciary Lawnmarket EH1 2NS	0131 240 6944
High Court Unit, Glasgow	0141 552 8674	Head of High Court Unit (West)	High Court of Justiciary, Mart Street G1 5NA DX 501556	0141 552 7653 Sitting Manager's Fax: 0141 552 8558
VIA National Office	01382 341185	Director	Caledonian House Greenmarket Dundee DD1 1QX	01382 341183
VIA Aberdeen	01224 569100	VIA Officer	C/O Procurator Fiscal's Office Atholl House 84-88 Guild Street Aberdeen AB11 6QA	01224 593498
VIA Airdrie	01236 745080	VIA Officer	C/O Procurator Fiscal's Office 87A Graham Street Airdrie ML6 6DE	01236 745082
VIA Dumfries	01387 272007	VIA Officer	C/O Procurator Fiscal's Office 44 Buccleuch Street Dumfries DG1 2AP	01387 272016
VIA Dundee	01382 341181	VIA Officer	C/O Procurator Fiscal's Office Caledonian House, Greenmarket Dundee DD1 4QA	01382 341182

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
VIA Edinburgh	0131 247 3443	VIA Officer	C/O Procurator Fiscal's Office 29 Chambers Street Edinburgh EH1 1LD	0131 226 7118
VIA Falkirk	01324 618481	VIA Officer	C/O Procurator Fiscal's Office Mansionhouse Road, Camelon Falkirk FK1 4LW	01324 628841
VIA Glasgow (‘A’ Division)	0141 418 5793	VIA Officer	C/O Procurator Fiscal's Office 10 Ballater Street Glasgow G5 9PS	0141 418 5796
VIA Glasgow (‘C’ Division)	0141 418 5786	VIA Officer	C/O Procurator Fiscal's Office 10 Ballater Street Glasgow G5 9PS	0141 418 5796
VIA Glasgow (‘E’ Division)	0141 418 5788	VIA Officer	C/O Procurator Fiscal's Office 10 Ballater Street Glasgow G5 9PS	0141 418 5796
VIA Glasgow (‘G’ Division)	0141 418 5800	VIA Officer	C/O Procurator Fiscal's Office 10 Ballater Street Glasgow G5 9PS	0141 418 5796
VIA Glasgow High Court	0141 559 5158	VIA Officer	Glasgow High Court Justiciary Buildings Saltmarket Glasgow G1 5JU	0141 552 7653
VIA Greenock	01475 881846	VIA Officer	C/O Procurator Fiscal's Office Sheriff Court Nelson Street Greenock PA15 1LT	

APPENDIX 4

CROWN OFFICE AND PROCURATOR FISCAL SERVICE DIRECTORY INCLUDING VIA CONTACTS – cont

Office	Tel No.	Area/District Procurator Fiscal	Address	Fax No.
VIA Hamilton	01698 201267	VIA Officer	C/O Procurator Fiscal's Office Cameronian House, Almada Street Hamilton ML3 0HG	01698 201449
VIA Inverness	01463 246511	VIA Officer	C/O Procurator Fiscal's Office 2 Baron Taylors Street Inverness IV1 1QL	01463 246513
VIA Kirkcaldy	01592 208244	VIA Officer	C/O Procurator Fiscal's Office Wing D, Carlyle House Carlyle Road Kirkcaldy KY1 1DB	01592 208246
VIA Kilmarnock	01563 548779	VIA Officer	C/O Procurator Fiscal's Office St Marnock Street Kilmarnock KA1 1DZ	01563 573279
VIA Paisley	0141 847 8154	VIA Officer	C/O Procurator Fiscal's Office 1 Love Street Paisley PA3 2DA	0141 840 4526
VIA Stirling	01786 460950	VIA Officer	C/O Procurator Fiscal's Office Carseview House Castle Business Park Stirling FK9 4SW	01786 460955

APPENDIX 5

SCOTTISH CHILDREN'S REPORTER ADMINISTRATION CONTACTS

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Authority Reporter	Area	Address	Phone No	Fax No
Authority Reporter	Aberdeenshire	8 Albyn Place ABERDEEN AB10 1YH	01224 654105	01224 637472
Authority Reporter	City of Aberdeen	2 Albyn Place ABERDEEN AB10 1YH	01224 654114	01224 640782
Authority Reporter	Angus and Dundee	Floor 3 91 Commercial Street DUNDEE DD1 2AF	01382 433020	01382 433284
Authority Reporter	Argyll and Bute	Kilbrandon House Manse Brae LOCHGILPHEAD PA3 8QX	01546 606937	01546 606947
Authority Reporter	City of Edinburgh – East	1 Fountainhall Road EDINBURGH EH9 2NL	0131 667 9431	0131 662 4640
Authority Reporter	City of Edinburgh – West	1 Fountainhall Road EDINBURGH EH9 2NL	0131 667 9431	0131 662 4640
Authority Reporter	Dumfries and Galloway	3 Newall Terrace DUMFRIES DG1 1LN	01387 255734	01387 263411
Authority Reporter	Glasgow North and East Dunbartonshire	Merchant Exchange 10/20 Bell Street Candleriggs GLASGOW G1 1LG	0141 567 7957	0141 567 7903
Authority Reporter	Falkirk	Campfield House Wellside Place FALKIRK FK1 5RL	01324 626996	01324 626911
Authority Reporter	Fife	Albany House 3 North Street GLENROTHES KY7 5NA	01592 414919	01592 414903

APPENDIX 5

SCOTTISH CHILDREN'S REPORTER ADMINISTRATION CONTACTS

Authority Reporter	Area	Address	Phone No	Fax No
Authority Reporter	Glasgow Regional Support	Merchant Exchange 10/20 Bell Street Candleriggs GLASGOW G1 1LG	0141 567 7979	0141 567 7991
Authority Reporter	Glasgow East	Merchant Exchange 10/20 Bell Street Candleriggs GLASGOW G1 1LG	0141 567 7905	0141 567 7902
Authority Reporter	Glasgow North East	Merchant Exchange 10/20 Bell Street Candleriggs GLASGOW G1 1LG	0141 567 7909	0141 567 7901
Authority Reporter	Glasgow South	Merchant Exchange 10/20 Bell Street Candleriggs GLASGOW G1 1LG	0141 567 7947	0141 567 7981
Authority Reporter	Glasgow West	Merchant Exchange 10/20 Bell Street Candleriggs GLASGOW G1 1LG	0141 567 7928	0141 567 7903
Authority Reporter	Highland	47-49 Academy Street INVERNESS IV1 1LP	01463 245310	01463 245309
Authority Reporter	Inverclyde	1/3 Brisbane Street GREENOCK PA16 8LH	01475 720221	01475 724525
Authority Reporter	Mid/East Lothian	1 Loch Road TRANENT EH33 2JX	01875 613355	01875 616178
Authority Reporter	Moray	23a High Street ELGIN IV1 1EE	01343 550015	01343 551856

Authority Reporter	Area	Address	Phone No	Fax No
Authority Reporter	North Ayrshire	1st Floor Rivergate House IRVINE KA12 8EH	01294 278151	01294 312132
Authority Reporter	North Lanarkshire	70 North Road BELLSHILL ML4 1EN	01698 746771	01698 748142
Authority Reporter	Orkney Islands	East Road KIRKWALL Orkney KW15 1LX	01856 873238	01856 873387
Authority Reporter	Perth and Kinross	52 Kinnoull Street PERTH PH1 5EZ	01738 620950	01738 627684
Authority Reporter	Renfrewshire/ East Renfrewshire	10 Glen Lane PAISLEY PA3 2HU	0141 889 9171	0141 889 5413
Authority Reporter	Scottish Borders	12 Ettrick Terrace SELKIRK TD7 4LE	01750 20372	01750 23063
Authority Reporter	Shetland Islands	13 Hill Lane LERWICK Shetland Islands ZE1 0HA	01595 692436	01595 696763
Authority Reporter	South and East Ayrshire	2 Bridge Lane KILMARNOCK KA1 1QH	01563 555838	01563 555841
Authority Reporter	South Lanarkshire	Dava House 43 Brousterhill EAST KILBRIDE G74 1AG	013552 32145	01355 264690
Authority Reporter	Stirling and Clackmannanshire	17 Gladstone Place STIRLING FK8 2NG	01786 476400	01786 476403

APPENDIX 5

SCOTTISH CHILDREN'S REPORTER ADMINISTRATION CONTACTS

Authority Reporter	Area	Address	Phone No	Fax No
Authority Reporter	West Dunbartonshire	55 Church Court DUMBARTON G82 1SU	01389 764268	01389 742131
Authority Reporter	West Lothian	5 Edinburgh Road BATHGATE EH48 1BA	01506 632741	01506 631077
Authority Reporter	Western Isles	10 Harbour Road Cromwell Quay STORNOWAY HS1 2DF	01851 706317	01851 702189

APPENDIX 6

EXAMPLES OF GUIDANCE ON INFORMATION SHARING

Protecting Children and Young People: Framework for Standards⁸

Standard 4:

Agencies and professionals share information about children where this is necessary to protect them

- 1 Professionals discuss any concerns and relevant information about a child or their circumstances with those other professionals or agencies with statutory responsibilities for the protection of children when it is in the child's best interests to do so.
- 2 The needs of each child are the primary consideration when professionals decide how best to share information. All decisions and reasons for them are recorded.
- 3 Agencies actively manage and support the sharing of information recognising that confidentiality does not prevent sharing information where a child is in need of protection.
- 4 Professionals ensure that parents and children are made aware of, and check it is understood, what information:
 - agencies hold;
 - how it is stored;
 - with whom it may be shared; and
 - under what circumstances information may be shared with others without their consent.
- 5 Professionals identify what information each child and their parents are content to share freely.
- 6 Professionals take account of each child and their parent's views when deciding when to share information without their consent and can provide reasons and explain to them when they have shared information without consent.

⁸ Protecting Children and Young People: Framework for Standards, Scottish Executive, 2004, <http://www.scotland.gov.uk/library5/education/pcypfs.pdf>

APPENDIX 6

7 Agencies and professionals store information securely.

Sharing Information about Children at Risk: A Guide to Good Practice⁹

This short guide gives advice to agencies about when it is necessary to share personal and confidential information about people using their service with other professionals, to safeguard and protect the welfare of children who may be vulnerable or at risk. It is designed to help staff approach this complex area with greater clarity and confidence. There is also a brief one page guide which summarises the leaflet.

⁹ Sharing Information about Children at Risk: A guide to good practice, Scottish Executive, 2004, <http://www.scotland.gov.uk/library5/health/sicr.pdf>

WIDER PROGRAMME OF WORK ON CHILD WITNESSES

The guidance set out in this document is part of a wider programme of work on victims, witnesses and the modernisation of the justice system. This chart sets out the wider programme and how it contributes to our aims and objectives for vulnerable and child witnesses.

Our Aim

To increase support and improve standards of treatment of vulnerable witnesses to help them participate in the legal process and give their best evidence.

The **Executive** is committed to:

- securing a criminal justice system that fully supports victims and witnesses
- reforming the courts and the legal system to deal with cases more efficiently.

It is widely accepted that children under 16 and other vulnerable witnesses find the current legal process intimidating and distressing.

The **Executive**:

- has achieved Royal Assent for the Vulnerable Witnesses (Scotland) Act 2004 to enable better protection and assistance to be given to vulnerable witnesses, particularly children - it is also intended that this new Act will help to support the development of a culture within the justice system which enables children and other vulnerable witnesses to participate fully
- has achieved Royal Assent for the Criminal Procedure (Amendment) (Scotland) Act 2004 to reform the operation of the High Court in Scotland which will be of benefit to vulnerable witnesses
- has implemented the Scottish Strategy for Victims, including establishing a Witness Service in Sheriff and High Courts and a Victim Information and Advice Service within the Crown Office and Procurator Fiscal Service
- co-ordinates the Child Witness Support Implementation Group to oversee the implementation of the recommendations of the Lord Advocate's Working Group on Child Witness Support.

Objectives

With regard to Vulnerable and Child Witnesses, these 4 key areas of work have commonly agreed objectives to:

- Improve information and support systems
- Improve case management and introduce greater certainty of time scales in sensitive cases
- Improve and increase the availability of special measures
- Improve the gathering and taking of evidence

APPENDIX 6

Child Witnesses

For child witnesses, this includes:

Information and Support Systems	Case management	Special measures	Gathering evidence
Publication and distribution of information for child witnesses and parents or carers CW	Consistent inter-agency operational support of young witnesses CW	Automatic entitlement to special measures VV	Improve conduct of interviews and precognition with young witnesses CW
Victim Support services, 31 local services, overseen by Victim Support Scotland that provide support to victims of crime SSV	More thorough case preparation HCR	Supporter as a statutory special measure VV	Greater use of prior statements as main evidence VV
Witness Service. Delivered by Victim Support Scotland, it provides information and practical and emotional support to all witnesses in the Sheriff and High Court cases SSV	Active case management by the judge including mandatory preliminary hearings HCR	Availability of special measures for witnesses in civil proceedings VV	Reduce stress of young witnesses in relation to identification of accused CW
Victim Information and Advice SSV	Consideration of special measures and case management by the Judiciary CW	Streamlined notification procedure for special measures well in advance of trial VV	Dock identification unnecessary where witnesses have previously identified accused VV
Publication and dissemination of leaflets and launch of website. www.scottishvictimsofcrime.co.uk SSV	Good practice guidance for judges and sheriffs and revision of the Lord Justice General's Memorandum on the treatment of Child Witnesses by the Courts, 1990 CW	Children under 12 in criminal cases about sexual or violent matters to give evidence without having to come to court VV	Abolition of competence test VV
Clarify roles of those making decisions relating to therapy before court proceedings CW	Facilitate the prioritisation of cases with young witnesses CW		Improve standards of questioning children in court CW
Improve conduct of court familiarisation visits CW	Modernised time limits to avoid unnecessary adjournments HCR		Restrictions on use of evidence relating to a witness's character and sexual behaviour in children's hearing court proceedings VV

Child Witnesses – cont

Information and Support Systems	Case management	Special measures	Gathering evidence
Refurbishment of court premises SSV	Greater certainty of trials including fixed diets HCR		Discretionary power in non-sexual offence cases to prevent accused conducting his own defence VV
Information on Vital Voices and the Vulnerable Witnesses (Scotland) Act 2004 is on website www.scotland.gov.uk/vitalvoices VV	Information about young witnesses to inform decision making in the legal process CW		Questioning victims of sexual offences in court SSV
Establish inter-agency mechanisms for collection and publication of statistics on young witnesses and court proceedings CW			Use of expert evidence to provide information about behaviour of a witness VV

CW = Child Witness Support Implementation Group

VV = Vital Voices (Vulnerable Witnesses (Scotland) Act 2004)

SSV = Scottish Strategy for Victims

HCR = Lord Bonomy's Reform of the High Court – now the Criminal Procedure (Amendment) (Scotland) Act 2004

 Relates to this publication



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Supporting Child Witnesses Guidance Pack

This document is also available on the Scottish Executive website
www.scotland.gov.uk

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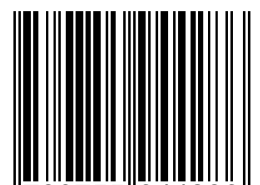
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