



**PROTOCOL FOR PROVISION OF  
THERAPY FOR CHILD WITNESSES  
PRE-TRIAL  
(Up to the age of 18 years)  
STAFFORDSHIRE AND STOKE-ON-TRENT**

**Introduction**

This protocol has been drafted as suggested in paragraph 6.16 of the Practice Guidance “Provision of Therapy for Child Witnesses Prior to a Criminal Trial” and should be read in conjunction with that Practice Guidance. References to paragraphs in the Guidance are made throughout the document.

**Prior to Therapy Taking Place**

1. Referral for assessment for therapy of any child during the pre-trial period when that child may become a witness, should only be undertaken following consultation with the relevant other professionals involved, the non-abusing carers and the child concerned, if of sufficient age and understanding.
2. It should not be an automatic assumption that all children who have been abused require referral for therapy. There may be a number of situations, such as the child not being ready for therapy, the child not having any behaviour or emotional problems at that time or the child not living in a safe and supported situation which would preclude therapy proceeding. Each individual case has to be considered separately.
3. If child protection procedures are implemented, this referral may flow naturally from a child protection conference. However, if the child is not the subject of a child protection conference, it may be necessary to convene a meeting of all relevant professionals and carers to discuss referral for assessment and therapy. Social Services should take the lead in convening such a meeting. This reinforces the current protocol for the police and Social Services liaising on every child protection case. It is not a decision for police OR Crown Prosecution Service whether a child should receive therapy. (Ref: paragraphs 4.3 and 5.9 of the Practice Guidelines, and Stoke-on-Trent and Staffordshire ACPC Joint Investigation Protocol 2002.)
4. Prior to the case being allocated to a therapist, if there are professionals from agencies responsible for the welfare of the child involved, they should liaise with the police officer in charge of the investigation to ascertain if there are any outstanding investigative matters or other issues which may mitigate against the advisability of therapy commencing.

If in other cases, where there are no professionals from agencies responsible for welfare of the child involved, then the person receiving the referral must liaise with the police officer in charge of the investigation to ascertain if there are any outstanding investigative matters or other issues which may mitigate against the advisability of therapy commencing.

5. Commissioners and providers of therapy for children in this situation must ensure that any therapist or counsellor has appropriate training according to the level of work to be undertaken as well as a thorough understanding of the effects of abuse. Membership of an appropriate professional body or other recognised competence would be expected in these circumstances. Therapists must also have a good understanding of how the rules of evidence for witnesses in criminal proceedings may require modification of techniques. (Ref: paragraph 5.7 of the Practice Guidance.)
6. An awareness is also essential that, where appropriate, the defence may apply for disclosure of therapeutic records. The therapeutic agency and individual therapists must also agree appropriate therapeutic record-keeping standards including the format. An outline Record of Therapy is enclosed as an appendix to this document – Appendix B.
7. Whilst it is appreciated that the majority of referrals for therapy will flow following the investigation of allegations of abuse, parents/carers can approach a therapist directly or through their General Practitioner at any stage following the initial investigation and prior to trial. It is also possible that more than one therapeutic agency might become involved. The onus is therefore placed on therapeutic agencies to enquire directly of families whether criminal proceedings or an investigation is continuing and to obtain details of the police officer in charge with whom they must liaise.
8. Prior to assessment/therapy commencing the therapist will contact the police officer in charge of the investigation who will give the therapist a synopsis of the allegations made by the child. (Appendix M of Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses including Children, January 2002, is suggested for video interviews).
9. Following contact from the therapist the police officer in charge of the investigation will inform the Crown Prosecution Service that the child is to commence therapy and the nature of the therapy. See attached notification to the CPS, Proforma Appendix A. (Ref: paragraphs 4.7, 4.8, 5.11, 6.2 and 6.3 of the Practice Guidance.)

## **Therapy Begins**

1. At the outset of therapy an understanding should be reached with the child and carers of the circumstances under which material obtained during therapy might be required to be disclosed. Confidentiality cannot and should not be guaranteed to children or families.

2. In general the therapist should avoid using leading questions or discussing the evidence which the child or any other witnesses will give, including exploring in detail the specific allegations made. It is expected that any therapist undertaking this work will have access to regular clinical support and/or case supervision. (Ref: paragraph 6.9 of the Practice Guidance.)
3. There are therapeutic approaches that would very definitely present problems as far as evidential reliability is concerned. These would include hypnotherapy, psychodrama, regression techniques and unstructured groups. The practice guidance also states that as a general principle group therapy should not be offered to the child witness prior to the trial. (Ref: paragraphs 5.23, 5.24 and 6.10 of the Practice Guidance.)
4. The child should receive individual sessions with the same therapist.
5. The therapist should make an immediate factual, concise and accurate recording of the session at the end of each session and the practice of identifying aims for each session recorded in the clinical notes is recommended. (Ref: paragraph 6.4 of the Practice Guidance.)
6. An outline proforma of therapy is included at Appendix B and this record should contain the following details:
  - (a) The date, time and location of the session.
  - (b) The name of the therapist.
  - (c) The names of anyone else present.
  - (d) The length and content of the session.
  - (e) Confirmation that records were made and of what type.
7. If a child talks about his or her abusive experience for which the alleged abuser is awaiting trial, the therapist should acknowledge what the child has said and make appropriate, generalised comments but should not ask probing investigative questions.
8. Should a child disclose further abusive experiences, the therapist should refer these to Social Services with a view to joint investigation being pursued by Police and Social Services. (Ref: paragraph 6.14 of the Practice Guidance.)
9. Prior to the trial, the record of the therapy proforma, which is filled in after each session, should be copied twice and one copy held on the therapy file. The original and other copy should be forwarded to the police who keep the copy and forward the original to the Crown Prosecution Service. The therapist should also complete a covering proforma which is sent with the record of therapy proforma to the police who forward it to the Crown Prosecution Service, see Appendix C for this proforma.

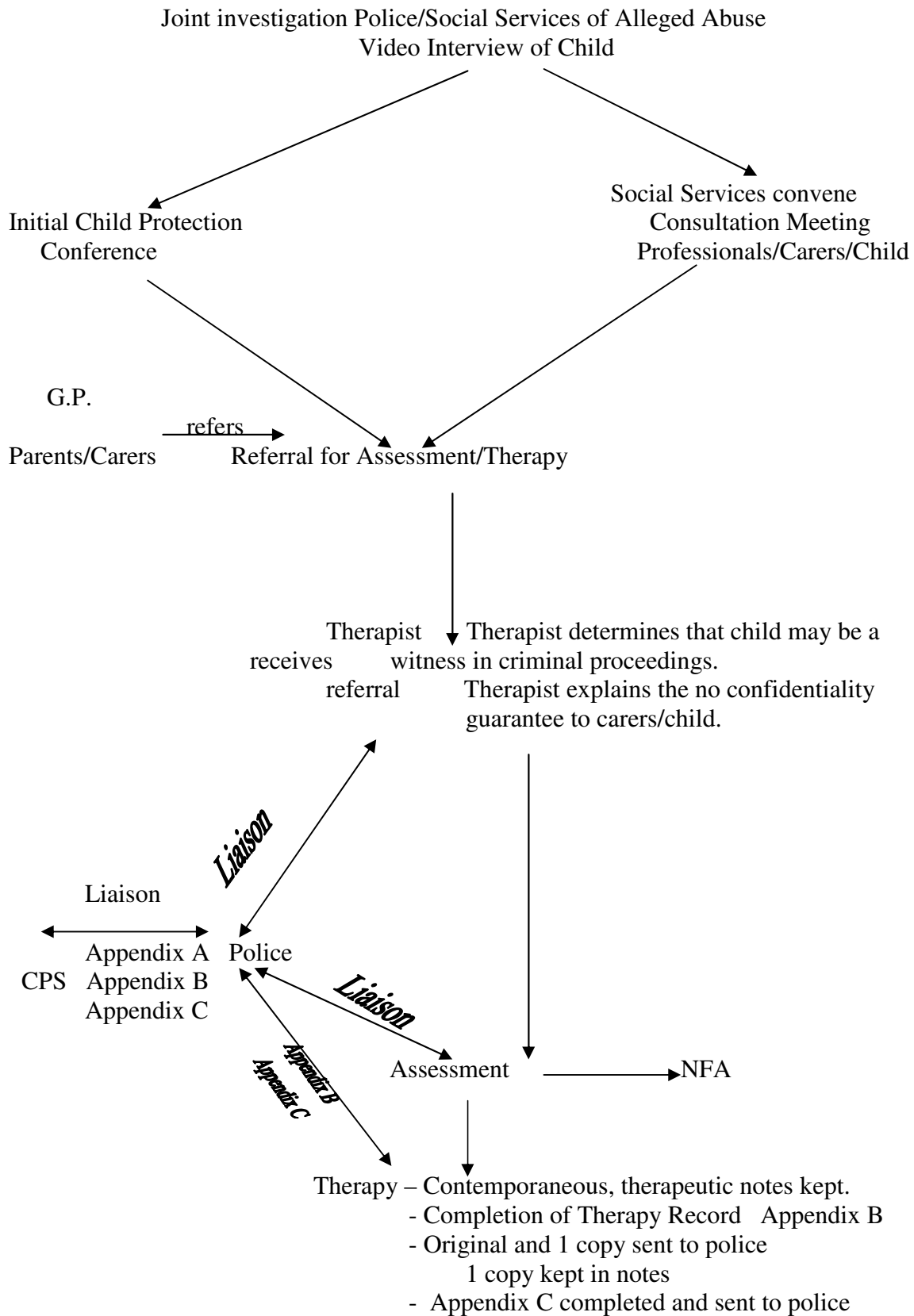
## **Disclosure Issues**

1. The Crown Prosecution Service Disclosure Duties are contained in Criminal Procedure and Investigations Act of 1996 and the Attorney General's Guidelines. (Ref: paragraph 3.9 of the Practice Guidance.)
2. These require the Prosecution to disclose any material which might undermine the prosecution case or assist the defence case.
3. The Crown Prosecution Service will seek an assurance from the therapist via the police that the witness did not in the therapy sessions say anything inconsistent with the statements made by the witness to the police and may need to be made aware of the contents of the therapy sessions when considering their duties of disclosure. This is covered in the proforma Appendix C. (Ref: paragraph 6.15 of the Practice Guidance.)
4. The defence will be informed by the Crown Prosecution Service that therapy has taken place.
5. The defence may, where appropriate, apply to the court for disclosure by way of a witness summons issued to the person holding the records.
6. It will be for the court to decide whether any part of the records of therapy should be disclosed but in the majority of cases public interest immunity would be applied for to prevent therapy records being disclosed.

The Practice Guidance Document is available from  
CPS Communications Branch  
Tel: 020 7796 8442  
or

[www.doh.gov.uk/quality\\_protects](http://www.doh.gov.uk/quality_protects) and  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

**FLOW CHART FOR PRE-TRIAL THERAPY**  
**OF**  
**CHILD WITNESSES**



**NOTIFICATION TO CROWN PROSECUTION SERVICE**  
**THAT CHILD IS TO RECEIVE PRE-TRIAL THERAPY**

To:     Reviewing Lawyer  
          Crown Prosecution Service  
          11a Princess Street  
          Stafford ST16 3EU

From: Name of Officer: .....

       Police Station: .....

Date: .....

Re:     **REGINA v** .....

The above named defendant has been charged on ..... with an  
offence(s) of

.....  
.....  
.....

(Name of Child) is a witness/complainant in this case: .....

.....

He/She is to commence therapy prior to the trial taking place:

Name of Therapist:.....

Nature of Therapy: .....

.....  
.....  
.....

APPENDIX B

Name of Child .....

Name of Therapist .....

BRIEF DETAILS OF THERAPY SESSION

<b>Location of Therapy</b>	<b>Length of Session</b>	<b>What Records Available Written/Video/ Audio</b>	<b>Any other Person Present: Yes/No If yes, give details and relationship to witness, if any</b>

**Appendix C**

**DISCLOSURE OF INFORMATION RE THERAPY SESSIONS**

Name of Child Witness:

DOB:

Home Address:

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Name of Defendant:

DOB:

Offence Charged:

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Name of Therapist:

Job Title:

Employer's details:

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(Was the therapist aware of full details of charges defendant faces?) YES/NO

Has therapist seen synopsis of allegations made by child witness to police? YES/NO

Did child witness say anything inconsistent with statements made by Witness to the Police: YES/NO

If yes – please give details on separate sheet.

Has the child taken part in group therapy prior to trial: YES/NO

Date:.....Signed: .....

## FREQUENTLY ASKED QUESTIONS

- (1) **Question** In instances where the alleged abuser is not known to the child and is outside the child's immediate family circle, the Social Services Department may not be involved. In these circumstances, who would have responsibility for convening the planning meeting about the provision of pre-trial therapy?

**Answer** It is expected that the police involved in the investigation will request Social Services to convene such a planning meeting.

- (2) **Question** How can commissioning agencies ensure that providers of therapy have appropriate training and commitment to pre-trial therapy and its protocol?

**Answer** The expectation is that all providers of pre-trial therapy should have signed up to this protocol. All providers should be suitably trained and/or qualified in therapy with sexually abused children but pre-trial work does not require any further specialised training beyond an understanding of the evidential implications of this work and a willingness to comply with this ACPC protocol.

- (3) **Question** Should a list of approved providers be given to parents/carers who might approach a therapist directly?

**Answer** Such an approved list would not be feasible but a leaflet to advise parents/carers on issues to consider regarding pre-trial therapy is being prepared and will be distributed by investigating police officers. In addition, there will be a launch of the protocol, for which there will be widespread publicity, to all potential providers of therapy. This will be backed up by putting the protocol on the Staffordshire and Stoke on Trent ACPC and the Crown Prosecution Service and Home Office web sites.

- (4) **Question** What kind of records do I have to keep as a therapist for a child in the pre-trial process?

**Answer** Good clinical contemporaneous notes dated and signed are expected in accordance with your agency's practice. These are part of the clinical record and would not automatically be disclosed in a court setting. However, it is possible that a disclosure order might be made and the records have to be produced. It is essential that this is explained to the child and family prior to therapy commencing. The only records that have to be sent to the Crown Prosecution Service via the police are:-

- (a) Appendix A, which is notification of commencement of therapy.
- (b) Appendix B, the listing of sessions held and their timing, not the content; what records are available i.e. written, audio, video and whether any other person was present.
- (c) Appendix C, which is a declaration by the therapist of any new disclosures or inconsistencies relating to the offence made by the child during therapy.

- (5) **Question** If a child is already undergoing therapy and makes a disclosure, or there is a child protection investigation, do I have to change the way I am working with this child?

**Answer** In this situation it is recommended that therapy should temporarily be suspended whilst the investigation is carried out. Once the child has undertaken the video interview, which may be their examination in chief in court, there is no reason why therapy should not resume, provided the child is in a safe, supported setting. However, the child's credibility as a witness may be challenged if therapy sessions are not individual, preferably with the same therapist as before.

(6) **Question** Where do I seek advice in order to comply with this protocol?

**Answer** Advice may be sought from the senior social workers in the relevant Children & Families team for Social Services or from the Staffordshire Police Child Protection Unit.

(7) **Question** Is this guidance specifically limited to those children where concerns have arisen of sexual abuse?

**Answer** No. This protocol applies to all children and vulnerable people who are believed to have witnessed or been the victim of crime.