

CHAPTER 13

VICTIM MANAGEMENT BEFORE COURT HEARING AND POST ABUSE THERAPEUTIC SERVICE

GOVERNING PRINCIPLES

- 13.1 It is most important that in the period following a video-recorded interview, and prior to any Court hearing, continued contact is maintained with the child and the family by the Child Protection Special Investigation Team (CPSIT), so as to keep them informed of the progress of the case investigation, and to prepare the child witness for attendance in Court. Full use of the Child Witness Pack available at the Social Welfare Department (SWD) and Child Abuse Investigation Units (CAIUs) of the Police should be made in this task. A pre-trial visit to the Court will also be arranged for the child to familiarize him/her with the Court setting.
- 13.2 Details of any visits and any relevant conversations should be recorded and retained.
- 13.3 The following areas are to be avoided in any therapeutic work carried out to the child before the trial :
- (a) details of the investigative interview;
 - (b) the abuse
 - what happened?
 - who did it?
 - when?
 - where?
 - (c) the use of any materials which suggest or presume that abuse has taken place.

PRE-TRIAL COUNSELLING SERVICE

13.4 Why is Therapeutic Work Necessary

It is recognized that all forms of child abuse may have long term harmful consequences for the emotional development and mental health of the victims. Once video-recorded interview is completed, it should be necessary for appropriate counselling and therapy to take place to reduce these harmful effects.

13.5 Definition of Pre-trial Counselling Service

Pre-trial counselling service should be defined as intervention which is focused on the needs of the individual child having experience of abuse. It aims at addressing the following areas of the child at the pre-trial stage :

- (a) Child's feelings and reactions in the aftermath of the investigation - fear, anger, insecurity, guilt, shame or confusion.
- (b) Sex education and sexuality including information about physical and sexual development, contraception, sexual orientation, and generalised self-protection (good and bad touching).
- (c) Social skills and peer relationships to overcome possible isolation, establish support and form normal alliances and friendships.
- (d) Rebuilding of self-esteem including improvement of self-image and integrity.

13.6 Who to Conduct Post Abuse Therapeutic Counselling Service at Pre-trial Stage

- (a) Subsequent to the video-recorded interview, members of the MDCC are responsible for assessing the need for post abuse therapeutic counselling to the child on individual case basis at the pre-trial stage. They should establish the cause of the child's distress, and must not presume that the abuse itself is the source. They must also make a clear distinction between investigative interviews and therapeutic interviews.
- (b) In providing counselling service, the follow up social worker should work with both the abused child and his/her family with emphasis on the child's relationship with the parents and other family members, his/her needs for proper care and attention, his/her health and development, behaviour and emotion, and schooling problems. Family support service will be mobilized in the process of counselling to improve parenting skills, the family's living environment, financial status and to provide substitute care for the child on need basis. Statutory supervision will also be enforced by the FCPSU social worker under Section 34(1) of Protection of Children and Juveniles Ordinance, Cap 213, to protect the child.
- (c) In circumstances when the child cannot resolve his/her inner feelings or overcome his/her fears or distress, helplessness, shame or distrust after the abuse incident(s), thus causing serious harm or damage to his/her emotional and mental equilibrium, counselling or therapeutic treatment may need to be provided to the child by a clinical psychologist or child psychiatrist.

13.7 Areas for Special Attention regarding Pre-trial Counselling Service

- (a) The child's need must take precedence.
- (b) All therapeutic work undertaken should have clear objectives and be reviewed to ensure continuous improvement in practice.
- (c) Efforts should be made to avoid direct contact between the suspected abuser and the child.
- (d) The follow up social worker or clinical psychologist or child psychiatrist should inform the Officer-in-charge of the Case (OC Case) / CAIU of the need for pre-trial counselling service for the child and shall consult the trial preparation counsel of the Department of Justice, preferably prior to the therapy / counselling taking place. The consultation should be done in written form and should include the areas to be covered, methods to be used and reasons for wishing to offer therapeutic help at that time. The Department of Justice will then offer comments on the proposal.
- (e) Where the Police are undertaking a parallel investigation which may lead to prosecution of an alleged abuser, there are important issues to be considered about the need for the child to receive appropriate counselling and support and the need for the child to appear as a creditable witness in Court.
- (f) Care should be taken to avoid counselling from adversely affecting the criminal proceedings.
- (g) Where the child is to give evidence in the prosecution, it is essential to avoid discussion of any matters which might discredit the child as a witness or permit allegations of coaching by the follow up social worker or clinical psychologist or child psychiatrist.
- (h) Anybody involved in the joint investigation is not preferred to take part in the counselling or psychological or psychiatric therapeutic treatment.
- (i) Anyone who does counselling or therapeutic treatment must realise they might have to give evidence in court themselves.
- (j) Where there is more than one victim, each should be counselled or treated separately.
- (k) If, during the counselling or therapeutic treatment, inconsistent comments are made, the follow up social worker, clinical psychologist, or child psychiatrist should be reminded of the following :
 - remind the child the need to tell the truth;
 - encourage the child to disclose the information to the Police;

- observe the rules regarding confidentiality in their own professionals' Code of Practice; and
 - seek advice from their supervisors and consider taking various appropriate action to safeguard the child's welfare and interest if affected.
- (l) Records of the counselling provided to the child must be kept in order as the Court or defence may justifiably wish to know about both the nature and content of the counselling that has taken place before the child gives evidence in cross-examination and such records may be subject to disclosure to the defence as unused material. Video-taped interview is allowed in therapeutic counselling but the tape has to be kept under locked.
- (m) At all stages, the follow up social worker or clinical psychologist or child psychiatrist should use games books or play materials in counselling with confidence, proper records and description of any game books, or apparatus, etc. used should be kept as these records may be subject to disclosure to the defence as unused material. Any exercise or materials which presume that abuse has actually taken place, or abusive scenarios for discussion should be avoided.
- (n) The follow up social worker or clinical psychologist or child psychiatrist engaged in the pre-trial counselling service should attend to the case review meeting, if needed, to contribute to the prompt development of a package of support services to the child, his/her siblings and carers. As a follow up worker of the case, he or she should be responsible for the coordination and review of post abuse work.
- (o) The follow up social worker will prepare the child witness for court hearing on areas like :
- (i) the physical setting of the Court;
 - (ii) roles of the personnel involved;
 - (iii) telling the truth;
 - (iv) the use of the live TV link or screens; and
 - (v) introduction of the support person, etc.
- (p) In the event that the clinical psychologist or child psychiatrist finds it unavoidable to go through the abuse incident(s) with the child again in order to offer effective therapeutic treatment to the child who is seriously at risk mentally or psychologically, the clinical psychologist or child psychiatrist should inform the follow up social worker, the OC Case / CAIU and seek advice from the trial preparation counsel of the Department of Justice. Consideration should then be made by the Department of Justice in striking a balance between prosecution and dropping the case in the best interest of the child. The follow up social worker, clinical psychologist or child psychiatrist should be informed by the Department of Justice of their decision.

VIDEO-RECORDED THERAPEUTIC INTERVIEWS

- 13.8 Some practitioners regularly record on video their therapeutic work with the children. It enables them to review the content of each session, reflect on their own contributions and plan subsequent sessions more carefully. This may aid professional development, and can be used with a consultant to improve practice further. A young person may appreciate having a record of these sessions to monitor their own change or perhaps to show to a trusted carer. Video-recording can be of value in student training, but should only be used after obtaining consent of the child and his/her parent concerned.
- 13.9 Practitioners who use video recording for the above reasons should be aware that such records may be subject to disclosure to the defence as unused material and / or called by the defence in a prosecution. Materials may be used to discredit the witness by finding inconsistencies in the child's evidence. A video-recording of a therapeutic interview is usually undertaken on the understanding that the record will remain confidential, and be kept securely. The child or young person may also be dismayed to find the contents of their video recording being used against them.
- 13.10 The decision to make a video recording of the therapeutic work should be left to the individual social worker, clinical psychologist and child psychiatrist having weighed the considerations above. It is preferable that only equipment which has the facility to record the date and time should be used. If such equipment is not available, then the date and time of the recording should be properly and accurately recorded at the start and end of the recording. Then care should be taken to label and store securely the video recording. Informed consent should be secured in every case, and arrangements should be made for secure storage and subsequent destruction of recordings.
- 13.11 Written records of counselling work should also be retained by social workers, clinical psychologists, or child psychiatrists providing service to the victim in line with normal practice on case records.

WRITTEN RECORDS OF THERAPEUTIC INTERVIEWS

- 13.12 In a prosecution, the defence may request access to some or all records kept about a child witness. Work undertaken with the child prior to the trial of the alleged abuser will be subject to scrutiny. Materials contained in a case file may suggest lines of cross examination, and again may be used to discredit the child's evidence. Records may also lay open the therapeutic process to accusations of coaching the child.
- 13.13 Good standard of case recording should be applied at all times, and extra caution should be exercised in these circumstances. Recorded comments should be soundly based on facts and susceptible to proof. Professional judgements should be backed by reasoning and concrete evidence.

Practitioner musings or speculative interpretations of the child's behaviour, play or drawings should be recorded accurately and not withheld.

- 13.14 Social workers, clinical psychologists or child psychiatrists undertaking the pre-trial counselling work with a child who is not involved in a prosecution should be aware that counselling work often enables a child to reveal further incident(s) or information about the abuse which may result in a subsequent prosecution. All pre-trial counselling work should therefore be supported by case recording in the light of the above guidance.

POST-TRIAL STAGE

- 13.15 After the trial, there are no constraints on the nature of counselling service. The follow up social worker should continue to look after the child and his/her family carers through counselling service and mobilization of family support service while the clinical psychologist or child psychiatrist should carry on their therapeutic treatment as needed by the child.
- 13.16 Apart from the follow up social worker, clinical psychologist and child psychiatrist, any other persons including staff of the residential homes who are providing pre-trial counselling service or care service to the child are also advised not to probe into the abuse incident(s) of the child.

