

COMPLEX CHILD ABUSE INVESTIGATIONS:
INTER-AGENCY ISSUES

GUIDANCE

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1. INTRODUCTION

1.1 The recently revised *Working Together to Safeguard Children*¹ guidance on inter-agency working to safeguard and promote the welfare of children highlights the particular difficulties associated with investigating complex (i.e. organised or multiple) abuse. Complex abuse occurs both as part of a network of abuse across a family or community, and within institutions such as residential homes or schools. Such abuse is profoundly traumatic for the children involved. Its investigation is time-consuming and requires specialist skills from both police and social work staff.

1.2 Recommendation 22 of the Waterhouse Inquiry Report *Lost in Care*² emphasised the need for guidance to social services departments and to police forces involved in major investigations particularly in relation to:

- safeguarding and preservation of police records of major investigations, including statements and the policy file;
- the safeguarding and preservation of social services files;
- access by the police to social services files;
- the supply of information about alleged and suspected abusers by the police following an investigation; and
- the sharing of information generally for criminal investigation and child protection purposes.

1.3 This document builds on the guidance on major abuse investigation set out in *Working Together* (see **Appendix A**) and has a particular focus on the specific issues identified in Recommendation 22. It should also apply to the investigation of abuse of vulnerable adults as set out in the guidance *No Secrets*³ and *In Safe Hands*⁴ and in the reporting by an adult of abuse in childhood. Complex abuse investigations can encompass three possible groups; reporting abuse on children (current); reporting of childhood abuse by adults; and reporting abuse on adults (current).

1.4 This guidance also provides best practice advice on a number of other key-inter-agency issues, drawing on the experience of a number of police forces and local authorities that have been closely involved in recent investigations into complex abuse. These issues

¹ *Working Together to Safeguard Children*: inter-agency guidance to safeguard and promote the welfare of children (1999) Department of Health, Home Office, Department for Education and Employment and (2000) the National Assembly for Wales.

² *Lost in Care* Report of the Tribunal of Inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974 (2000) The Stationery Office

³ *No Secrets* Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse (2000) Department of Health

⁴ *In Safe Hands* Implementing Adult Protection Procedures in Wales. (2000) National Assembly for Wales (Social Services Inspectorate for Wales).

include the tasks and functions of the management and investigative teams, support to victims and witnesses, media handling and closure procedures.

1.5 Complex abuse is defined in paragraph 6.24 of *Working Together to Safeguard Children* as “abuse involving one or more abusers and a number of related or non-related abused children and young people. The abusers concerned may be acting in concert to abuse children, sometimes acting in isolation, or may be using an institutional framework or position of authority to recruit children for abuse.” Some investigations become extremely complex because of the number of places and people involved, and the period of abuse. The complexity is heightened, as in historical cases, where the alleged victims are no longer living in the settings where the incidents occurred or where the alleged perpetrators are no longer linked to the setting or employment role.

1.6 Each investigation of complex abuse will be different, according to the characteristics of each situation and the scale and complexity of the investigation. Although there has been much reporting in recent years about complex abuse in residential settings, complex abuse can occur in day care, in families and in other provisions such as youth services, sports clubs and voluntary groups. The emergence of cases of children being abused via the use of the internet is also a new form of complex abuse with which agencies are having to grapple. Each complex abuse investigation requires thorough planning, good inter-agency working, and attention to the welfare need of the child victims or adult survivors involved. This document seeks to help agencies confronted with these difficult investigations by sharing the accumulated learning from past investigations.

1.7 This document is intended to promote close and frequent co-operation between police officers and social workers engaged in complex abuse investigations. However, it is also relevant to all agencies (such as health, education, NSPCC and probation) that may be asked to contribute to a complex abuse investigation and to registration authorities where continuing registration might be affected by the investigation. It seeks to identify and steer a path through the conflicting duties placed on officers and employees of Constabularies, Councils, NSPCC and the Crown Prosecution Service, both when working as a team in child protection matters and as individual agencies. It sets out an overarching policy and practice framework to inform and shape the detailed strategic plans that agencies will need to develop when confronted with a complex child abuse case. It is not intended to provide detailed operational guidance on all aspects of such investigations. Other relevant guidance on various aspects of child abuse investigation is listed at **Appendix B**.

1.8 Consideration has been given to the compatibility of this Guidance with *The Human Rights Act*, with particular reference to the legitimacy of its aims, the justification and proportionality of the actions intended by it and that it is the least intrusive and damaging option necessary to achieve the aims. A balance must be struck between the importance of the aim of the investigation and any adverse effect on the individual and/or the community. All agencies involved in the investigation need to take account of the likely impact on the victim, suspected offender and the community when they consider whether the investigation or any course of action is proportionate to the aim.

1.9 The protection of any children identified as being at risk of harm remains paramount, but the sharing of information and confidentiality issues should be treated with

due consideration for the alleged offender. Agencies should take appropriate practicable steps to minimise the potential disruption and damage to the alleged offender's private and professional life caused by a protracted investigation, taking place in many cases many years after the alleged offence was committed. Where allegations are subsequently found to be ungrounded, or it can be proven that false or malicious allegations have been made, the needs of the alleged offender should be treated with sensitivity.

2. INTER-AGENCY CO-OPERATION

2.1 The various agencies involved in a complex abuse investigation should be committed to working together in partnership to ensure that relevant information is shared and that appropriate action is taken to minimise the risk posed by alleged offenders to children and vulnerable adults.

Relationships between the Police, Social Services and Crown Prosecution Service

2.2 Paragraph 7.27 of *Working Together* emphasises that research and experience have shown repeatedly that keeping children safe from harm requires professionals and others to share information. Often it is only when information from a number of sources has been shared that it becomes clear that a child is at risk of, or is suffering, harm. This is also true for vulnerable adult victims.

2.3 Complex abuse investigations should be undertaken as a joint operation involving the police and social services, with the Crown Prosecution Service (CPS) being involved at an early stage as appropriate. In many cases there will be value in involving an independent child protection agency such as NSPCC. *Working Together* states: “Investigations into allegations relating to a member of social services’ own staff (or foster carers) should involve an independent person from outside the authority, for example another local authority or NSPCC.” The CPS is independent of the police and should not be involved in operational decisions about the conduct of an investigation. However, the CPS can provide advice about the evidential or legal implications of issues arising during an investigation, and early involvement in this regard can inform decisions made by the investigation team. It is important that there is continuous advice and interaction between each agency throughout the investigation and any resulting prosecution.

2.4 Investigation teams should have visible support from the top ranks in the police and social services and other agencies throughout the inquiry. This requires the involvement of senior personnel, at least at Assistant Chief Officer and Assistant Director/Head of Service level in a central Strategic Management Group. It is for each agency to determine their representative. It is key that these individuals are empowered with full decision-making authority, for example in the allocation of resources.

Relationships with Area Child Protection Committees

2.5 An investigation of organised abuse will be carried out under the auspices of the Area Child Protection Committee (ACPC), which should be kept informed of its progress. It should be the role of the Strategic Management Group to liaise regularly with the ACPC. However, the committee should not take any direct role in the management of the inquiry.

Relationship with Voluntary Organisations

2.6 Voluntary organisations could be involved at senior management level in the Strategic Management Group meetings (see Chapter 3). At other times liaison should be maintained through senior and frontline social services staff. Advice may be sought on

specific issues, for example the availability of local counselling or support services. Protocols about access to voluntary agency files should be agreed.

3. SETTING UP AN INVESTIGATION

Strategic Management Group

3.1 An inter-agency Strategic Management Group should be convened as early as possible to act as a steering group and to formulate policy and procedure. It should also be a primary responsibility of this group to ensure that the welfare of children/young people is paramount at all times.

3.2 The tasks and functions of the Strategic Management Group may vary from case to case but should normally include the following:

- a) to establish the terms of reference of the investigation;
- b) to take ownership of the strategic leadership of the investigation;
- c) to agree the staffing of the investigation and the membership of the Investigation Management Group (see paragraph 3.12);
- d) wherever necessary, to agree protocols:
 - (i) to govern the future handling of the investigation e.g. on media handling and victim/witness support (see (m) and (t) below)
 - (ii) for the sharing of information, to ensure that the investigative team secures full access to records from all agencies affected by the investigation and individuals holding important information, and to commit all parties to providing the necessary help with the obtaining of records from any outside organisations;
 - (iii) to ensure staff safety in carrying out the investigation.
- e) to agree a schedule of dates for future meetings of the Strategic Management Group;
- f) to ensure that any current risks to children that emerge during the course of the investigation are acted upon immediately. A Strategic Management Group should develop a risk management protocol, by regularly reviewing risk indicators in relation to subject children. The protocol should detail elements of a robust risk management process to be implemented for the duration of the investigative activity, and establish effective mechanisms for communication between the investigative team and the relevant social services department. A protocol model devised by the NSPCC is at **Appendix C**;
- g) to ensure that there are safeguards in place to guarantee the integrity of the investigation, taking into account the need to exercise particular care to guard against the risk of eliciting false allegations against innocent people. The Strategic Management Group should monitor carefully the approaches used in contacting further potential witnesses and the conduct of any subsequent interviews, and ensure that any doubts about the validity of evidence are fully

addressed. The overall process for gathering corroborative and additional evidence must be subject to rigorous scrutiny by the Group. Issues to consider might include the complex nature of the investigation, the time that may have elapsed since the alleged offences occurred and the motivation and potentially vulnerable nature of the victims/witnesses.

- h) to ensure that all agencies work together effectively;
- i) to ensure that all agencies commit sufficient trained resources, including clerical and administrative back-up, to ensure that the investigation is thorough and that prompt and appropriate support is offered to child victims, adult survivors and their families during the investigation itself, and throughout and after any court hearing;
- j) to ensure that wherever possible a dedicated incident room is established for the investigation team (police and social services);
- k) to secure and resource access to expert legal advice (e.g. in-house police legal team, local authority legal service, early CPS advice). This is essential if the inter-relationship between child protection, disciplinary and criminal processes is to be properly managed, in particular ensuring that any subsequent criminal case is not needlessly compromised;
- l) to establish a policy on how agencies deal with questions of potential financial compensation for victims, to clarify that members of the investigative team should not instigate any discussion of the issue and should avoid discussing it if it is raised by any victims or witnesses in the course of the investigation. Practical guidance should be given to interviewing officers in line with this policy;
- m) to monitor and review procedures used for gathering and recording evidence, to ensure that they are tightly controlled and supervised, to safeguard against potential criticism that investigating officers prompted the witnesses. Guidelines on appropriate methods of evidence gathering and recording are detailed in ACPO's Handbook for Senior Investigating Officers, and the Strategic Management Group should ensure that agreed procedures are followed robustly and consistently;
- n) to ensure the appropriate recording of material obtained during the course of the investigation, and also the safe and secure storage of records, through the early appointment of a disclosure officer, in accordance with the Criminal Procedure and Investigations Act 1996 and the accompanying Code of Practice;
- o) to agree a strategy to ensure that contact with the media is properly managed and co-ordinated throughout the investigation and any subsequent criminal proceedings, using a nominated press officer. This will allow frontline

workers and other staff involved with the investigation to concentrate on the investigation itself;

- p) to ensure that careful consideration is given throughout the investigation to the health and social care needs of child victims and adult survivors and particularly those who will be acting as witnesses (see Chapter 7). The group will also need to ensure at the same time that as far as possible, any witness's ability to give evidence in criminal proceedings is not prejudiced by the provision of such assistance and that guidance on pre-trial therapy is taken into account. In some circumstances it may be appropriate to employ dedicated personnel tasked to liaise regularly with victims and/or witnesses to ensure that they are kept up-to-date with the progress of the inquiry and to ensure their wellbeing;
- q) to secure the provision of appropriate accommodation facilities and trained interviewers for all witnesses, and to give special attention to the needs of witnesses who are children, young people or vulnerable adults and any who may be subject to intimidation;
- r) to ensure that, when appropriate, the 1992 Memorandum of Good Practice on video-recorded interviews with child witnesses for criminal proceedings is followed; noting that when Part II of the Youth Justice and Criminal Evidence Act 1999 is implemented, the 1992 document will be replaced by new guidance: *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children*;
- s) to check with the social services representative on the group that where children or young people have been removed from their families an appropriate placement is found for them, their needs are being fully assessed according to the Framework for the Assessment of Children in Need and their Families, appropriate professional medical, physical and emotional support is being provided as needed and to check also what partner agencies can do to help;
- t) if the alleged abuse occurs in a residential setting, to ensure that the child's protection is safeguarded, that other children who may be at risk are safeguarded and, if necessary, that suitable alternative accommodation is provided. Equally children may require safeguarding in a range of non-residential settings such as day care, schools, hospitals etc;
- u) to consider the need for a review of the case as a means of identifying and acting on lessons learnt as the investigation proceeds and at its close. If a formal review is necessary, this will normally be a Chapter 8 (Working Together) review under the auspices of the Area Child Protection Committee. However, in exceptional cases, a public inquiry may be necessary. The group should liaise with relevant Government departments (normally the Department of Health in England or in Wales, the National Assembly for Wales) when determining the question of review;

- v) to ensure that suitable arrangements are made for the victims and their families during the course of criminal proceedings with particular regard to post-testimony trauma experienced by many witnesses. Consideration should be given to the formation of a court support group and/or to whether a child and family/adult survivor support group is appropriate to the circumstances of the investigation (and that decision should be kept under review at all times). The group should give consideration to the appropriate composition of the child and family/adult survivor support group and should receive regular reports from the representative of the child and family support group. The group should consider what resources are necessary to support such activities;
- w) to consider the appropriateness in individual cases of meeting parents of children involved and relatives of adult survivors to keep them fully and consistently informed as to the steps being taken by the relevant agencies and the support available to them;
- x) to consider the impact of stress on frontline workers from any agency and ensure that appropriate stress management resources are offered;
- y) to consider whether voluntary or independent agencies which operate in establishments should be directly involved in, or have knowledge of, the strategic management of such investigations;
- z) to keep establishments subject to investigation fully informed of the progress of the investigation, as well as the registration authority (SSD Inspection Units up to April 2002 – except in the case of Voluntary Children’s Homes which are a responsibility of the Department of Health and the National Assembly for Wales at this time. For day carers and child minders, OFSTED in England, and SSD Inspection Units up to April 2002 in Wales when regulation transfers to the Care Standard Inspectorate for Wales);
- aa) to establish a clear policy, consistent for each suspect, in respect of what should be the subject of a prosecution. Decisions on whether or not to prosecute should rest firstly with the Senior Investigating Officer, who may make use of early advice from the CPS. Where possible, it is good practice to agree with the CPS an initial nominated person for all such cases through whom consistency of decision-making can be achieved, although in large CPS Areas there may be a need for a number of prosecutors to deal with such cases.

3.3 The Strategic Management Group should be chaired by the police or social services, depending on the particular circumstances of the case, and should have the following core membership which should remain constant throughout the investigation (although there may be a need to add other personnel as the investigation progresses):

- Assistant Director of Social Services or equivalent
- Assistant Chief Police Officer
- Police Senior Investigating Officer
- Social Services Lead Manager
- Local Authority Legal Services
- Press Officer(s)
- Senior Health representative
- Other individuals and/or agencies as appropriate, i.e. Assistant Director Education Department, CPS, Probation, NSPCC, voluntary organisations.

Links will also need to be established for example with the Chief Executive of the relevant local authority to consider resource pressures.

3.4 Where professionals are implicated as suspected perpetrators of abuse, it is imperative that their line managers are not represented in either the Strategic Management Group or the investigation team. An early mapping exercise to determine the scale of the investigation should help to identify such individuals.

3.5 The initial meeting of the Strategic Management Group must involve senior managers who have the authority to take decisions on the allocation of resources. A protocol for information sharing should be formulated and a clear media strategy agreed. It is most important to involve other agencies at this early stage so that senior managers can identify the need for, and arrange the provision of and allocate appropriate resources to any support services identified such as community and specialist health services (including psychiatric services, counselling services and sexual health services). The specific services required will be dependent on the nature of the investigation. For example, adult medical and psychiatric services may be required, or the involvement of prison or probation services may be necessary where potential abusers and/or victims are under the supervision of those agencies.

3.6 At the first meeting of the Strategic Management Group the agreed terms of reference should be minuted. At all subsequent meetings held in accordance with this guidance, minutes should be prepared fully detailing all policy decisions and actions. The reasoning behind each decision should be recorded in a “Policy Book” and the preparation of an action list is essential to ensure an audit trail and for subsequent monitoring purposes (note that this document is potentially disclosable in subsequent criminal proceedings). All minutes should be classified CONFIDENTIAL and all copies should be individually numbered. Copying of the minutes should only be allowed on the express authority of the Chairperson.

Selecting members of the investigation team

3.7 The Strategic Management Group should identify those people from within and outside their organisations who have the required expertise for dealing with a complex abuse investigation. This will include experience of investigating allegations of abuse, compiling profiles and understanding methods of abusers (in cases of sexual abuse), child protection

processes, children's welfare, legal processes, disciplinary proceedings and working with child victims, adult survivors and their families.

3.8 In selecting staff to be involved in the investigation, it is essential to identify individuals in whom it is possible to place absolute trust and who display sensitivity, honesty, empathy and personal maturity. This process will require the careful checking of references and employment history. It is vital that all investigators are and can be seen to be independent from those parties who are the subject of the investigation. Members of the investigation team could include existing members of the agencies conducting the investigation (as long as such individuals do not have any connection with the matter being investigated and appropriate arrangements are made to cover their normal duties while they are working on the investigation), appropriately qualified agency staff brought in on long-term contracts for the duration of the investigation, or an outside organisation. In terms of outside organisations, the NSPCC (for example) have a network of specialist investigation services throughout England and Wales that can be brought in to provide dedicated staff and management for complex abuse inquiries.

3.9 Police officers chosen for the investigative teams must have a good investigative background. A significant proportion of chosen officers should have experience in child protection investigative work. All police officers should have the personal qualities to cope with the inherent stresses and high emotional content of child protection investigation work. Similarly, social workers chosen for investigative teams will need a depth and breadth of experience in child protection investigations with the police and both family justice and criminal court work. Where victims or witnesses are identified as having special needs such as learning impairments or communication difficulties, more specialist staff will be required.

3.10 Consideration should be given to the employment of a trained archivist/researcher to undertake duties such as tracing of inquiry subjects. Employment of such an individual may greatly enhance the operation of an investigation given that there may be a large amount of paper-based files used as sources of information. These files will vary in age, format and quality so that for the purposes of information management, development of a specialised file system may be invaluable.

3.11 The NSPCC experience in complex abuse inquiries highlights the benefits of working together facilitation for all operational staff at the outset of the inquiry. This has involved workshops for all personnel involved in the inquiry to promote effective joint working and to formulate mechanisms for conflict resolution.

Investigation Management Group

3.12 An Investigation Management Group should be set up under the Strategic Management Group. Meetings of this group should also be fully minuted as indicated in paragraph 3.5. The tasks and functions of the group may vary from case to case but should normally include the following matters:

- a) to provide a forum where professionals can meet, exchange information and devise tactics for the implementation of agreed strategy on a day to day basis to progress the investigation;
- b) to ensure a consistent strategy for interviewing victims within and outside council areas;
- c) to keep the Strategic Management Group informed of any resource shortages experienced by professionals;
- d) to ensure a consistent and appropriate inter-agency approach to practical and emotional support for victims and their families throughout the investigation including facilitating such services where victims fall outside of the jurisdiction of the investigating agencies;
- e) to co-ordinate inter-agency response to families and provide consistent information;
- f) to ensure all staff working on the investigation are given support and ensure welfare concerns are addressed;
- g) to ensure that issues which need to be shared by other agencies not represented on the Strategic Management Group or Investigation Management Group are communicated to those agencies and addressed;
- h) to ensure that all staff involved in the investigation are clear about the parameters of shared information, data protection and confidentiality between the various agencies and observe the terms of the information sharing protocol agreed by the Strategic Management Group. It should be clear that investigators will have full access to records and individuals holding important information;
- i) to ensure that relevant intelligence has passed between agencies and to the Police Major Incident Room (MIR). Intelligence should also be passed to the Force Intelligence Centre as appropriate.

3.13 The Senior Investigating Officer or his/her deputy should chair the Investigation Management Group and membership should include representatives from the Social Services, Education, Health, and local authority legal services. Other agencies should be invited to be members of the group as appropriate.

Security, Accommodation and Communications

3.14 A key issue in any complex abuse investigation will be ensuring the security of the investigation.

3.15 It may be necessary to set up separate accommodation for the investigative team with separate provision for interviewing and meetings. For example, a number of complex abuse inquiries have been located within NSPCC's specialist investigation services premises. This may help facilitate good inter-agency working as well as provide a secure location for

documentation. It will also ensure the independence of the investigation from other work that is ongoing in the wider department. Those managing the investigation need to be aware that there may be attempts to sabotage the investigation, to destroy materials or to interfere with or intimidate staff working on the investigation. Appropriate steps should be taken to minimise these risks.

3.16 Certain investigations may involve an element of 'whistleblowing'. In this context it should be possible for individuals to approach the investigative team with confidence as to their anonymity and personal safety. A secure telephone line and discreet access to the investigation team may help staff (and the public) to come forward and ensure confidentiality. However, it should be made clear that it is not possible to give an unequivocal guarantee of confidentiality during any subsequent court proceedings.

4. ACCESS TO RECORDS

4.1 One of the most difficult issues in complex abuse investigations relates to the tracing, use, management and disclosure of documentary information relevant to the investigation. The investigative team should consider what information is required and where it is likely to be and take immediate steps to secure it within each agency. The investigative team will also need to access a variety of records during the investigative process. A list of relevant records is set out at **Appendix D**.

4.2 It must be recognised by those seeking to trace victims that some may be very reluctant to co-operate with any inquiry. Some victims may have managed to overcome their childhood experiences and may be living with partners who have no knowledge of the abuse. Others may be very affected by their experience of abuse and may find it difficult when having to cope with recalling their experience. Staff records usually prove somewhat easier to trace due to pension rights but casual and voluntary staff can prove elusive. A vast range of documentary information will exist on residents' personal files, personnel files and general establishment records and registers. It is crucial that the location of these is quickly identified so that they can be secured. **Clear protocols and procedures for investigative access to this material will need to be established and enforced (see Chapter 5).**

4.3 The inquiry will need to take into account the relevant dates of service of the alleged perpetrator at the establishment to which the allegations relate and those at all other places of work throughout his or her entire service. The process of collating all relevant service dates, records of residents and members of staff for each establishment can be extremely difficult in practice.

Addressing the difficulties in finding records

4.4 Members of the investigation team should be aware that although the Children Act 1989 and its accompanying regulations and guidance set out strict record-keeping requirements, these requirements are much tighter than those that existed before the Act was implemented (for record-keeping practices before and after the Children Act 1989, see **Appendix E**). The requirement to keep records for many years after a child has left care only dates from the Children Act. As a result, investigators may find that key information relating to children in the care system in the 1950s-80s no longer exists. All of this emphasises the importance of knowing about past record-keeping practice and of promoting good record-keeping practice for the future.

4.5 Other vital information may have been damaged or destroyed. Information may have been lost as a result of local authority reorganisation or may now be illegible due to poor paper or print quality. Where historical records are not readily available, a database of potentially relevant children and young people (such as those formerly resident at a residential establishment) has to be built up gradually from other records, possibly unrelated to the establishment under investigation. Alternatively, the database may have to be built up by word of mouth from ex-residents and staff who recall other individuals at the establishment.

4.6 For example, such a database could include:

- Names of all children's institutions in the area
- Family details (where available) for any particular child
- Names of all children who have lived in these institutions
- Details of all placements of a particular child
- Details of every carer a particular child has had
- Names of children who were placed with/lived with a particular child
- Names of all staff who have worked in the relevant children's establishments
- Employment record of all above staff members
- As much information as is available about individuals who have worked with the named staff members throughout their careers
- Outcomes of children in care where these individuals have worked
- Any knowledge/conjecture about possible relationships/incidents

4.7 Timelines can be used so that for any staff member relevant to the investigation, it is possible to observe the period during which it is known that individual had contact with children and the names of those children. An organisational chart may also be useful in order to illustrate the inter-relationships between staff/suspects, the relevant children and the relevant children's institution. In this way it is possible to observe at a glance which relevant adults have known each other, as well as the institutions with which they have been connected and thus the names of children with whom they may have had contact.

4.8 It may be important to identify who was involved in the appointment of a particular staff member or who provided an incoming and outgoing reference. In this way it may be possible tentatively to establish which members of staff associated with each other. While 'hard evidence' of staff conspiring to abuse is rarely available, there is sometimes relevant 'soft information' about staff protecting each other and this may conform to patterns of association established from personnel records.

4.9 On another level, if it is known from personnel files that a staff member worked at an establishment from date A to date B, investigating staff can identify the group of residents who may have been the potential or alleged victims. Witnesses, interviewed regarding a period when they themselves were residents, may find themselves able to remember only the first names or nicknames of other residents placed there at the time. Establishment registers and photographs will facilitate the development of initial information and assist the progress of the inquiry.

5. INFORMATION - SHARING

Confidentiality when exchanging information

5.1 Child abuse investigations rely critically on sensitive or highly confidential information being made available to investigators. Under *Working Together* and the guidance to the Data Protection Act 1998, agencies should already have in place a protocol for the sharing of information. The Strategic Management Group should ensure the effective use of the protocol for the purposes of any inquiry. All members of the investigation team should be aware of, understand and observe the protocol. It is vital to establish clear understandings about the rules governing disclosure of information to members of the investigating team and those colleagues and supervisors who require access to the information, who must be regarded as forming a circle of confidentiality. Consideration should also be given to the use of confidentiality agreements with regard to individuals employed to undertake the investigation.

5.2 The Data Protection Act 1998 requires that personal information be obtained and processed fairly and lawfully; only be disclosed in appropriate circumstances; be accurate, relevant and not held longer than necessary; and be kept securely. The Act allows for disclosure without the consent of the subject in certain conditions, including for the prevention and detection of crime, or the apprehension or prosecution of offenders, and where failure to disclose would be likely to prejudice those objectives in a particular case.

Information-sharing protocol

5.3 The following general principles should apply in developing an information-sharing protocol:

- it is the responsibility of each agency to ensure that all relevant information is exchanged;
- only those who can contribute to the discussion about risk of harm/danger to the public and the management of dangerous behaviour in each individual case should be invited to a case discussion, so that boundaries on confidentiality are preserved as tightly as possible;
- records of meetings should only be circulated to the senior member attending from each agency;
- the principles of confidentiality should be discussed at the commencement and conclusion of all meetings.

5.4 The protocol will need to pay careful attention to the impact of disclosure for the purposes of any criminal proceedings. Accordingly, the following factors should be covered:

- Clarification of individual parties' responsibilities;
- Clarification of statutory position on disclosure (i.e. that it is solely for the purpose of enabling the police and CPS to conduct their statutory duties under the Criminal Procedure and Investigations Act 1996 and in accordance with the Attorney General's guidelines on disclosure);
- The Local Authority's duty to consider asserting Public Interest Immunity;
- Circumstances in which disclosure to the police can be made without a Court Order;
- Procedure for police or CPS requests for access to Local Authority records (including the information to be incorporated in the request) and for Local Authority response to police requests;
- Procedure for police requests for taking notes from or copies of records, and Local Authority response to such requests;
- Procedure for dealing with police requests for original documents;
- Arrangements for police notification to Local Authority of requirement to disclose documents to defendant;
- Procedures in the event of an application for a Court Order;
- Arrangements for the Crown Prosecution Service to notify the Local Authority of any defence application for disclosure of records, to allow PII argument to be prepared;
- Procedures for informing the Local Authority of an Order of the Court compelling disclosure of any unused material to the defendant;
- Responsibilities of nominated Local Authority officer to keep a written register of all requests for access and responses, of all documents to which the police have had access, all documents disclosed to the police and any document disclosed to the defendant;
- Procedure for destroying police notes in the event of no prosecution, or a discharge, or acquittal.

5.5 The governing principles of the law are set out in **Appendix F**.

5.6 Work is currently underway in the context of a wider project on disclosure to develop a national protocol on disclosure of material from social services in child abuse cases. Many areas already have protocols between the police, social services and the CPS. Drawing on examples of good practice at local level, the aim of the project is to draw up a national protocol which will provide a consistent and uniform approach to assist agencies in dealing with the particularly complex information-sharing issues which arise in complex child abuse cases. This will include issues such as the procedures for the disclosure of police records and relevant information to other agencies (for example to assist in disciplinary matters). This work is being taken forward in consultation with all the agencies, and it is expected that the model protocol will be completed later in 2002.

Risk assessment of alleged perpetrator

5.7 There needs to be an exchange of information in order to manage the risk to the public, and it is important to ensure the maximum confidentiality of such exchanges. Only relevant information should be shared in relation to alleged perpetrators and victims. The police should share information relating to the alleged offence and any other relevant information. The social services should share information about the known conduct, current

professional and domestic circumstances of alleged offenders and, where applicable, victims. Any other information relevant to protect the public from the commission of further offences should also be shared. Children currently living with an alleged perpetrator or to whom an alleged perpetrator has unsupervised access may be at risk. Alleged perpetrators may have contact with children in other contexts, e.g. through youth work, day care, etc., or as a volunteer.

5.8 When a statement of complaint is received in respect of an alleged perpetrator, a risk assessment is immediately required. It is necessary for the level of risk to be assessed so that steps can be taken to ensure that all current risk is considered and minimised. It is not appropriate for a risk assessment to be carried out by officers engaged in the investigation. The Criminal Justice and Court Services Act 2000 makes provision for multi-agency risk panels to be established and places a statutory duty on the Police and Probation Services to manage risk for identified groups of perpetrators. As part of these arrangements, police forces and probation areas will have established procedures for assessing risk and for information sharing. It is important that in cases where an alleged perpetrator is identified, steps are taken for notification to be provided to the multi-agency risk panel.

5.9 The notification by the investigating team should be made to the multi-agency risk panel relevant to the area where the alleged offender is currently residing. It will be essential during the course of the investigation for the investigating team and the multi-agency risk panel to have effective lines of communication so that relevant parties are quickly notified of changing circumstances.

Access by the police to social services files

5.10 Social services files frequently contain information or evidence relevant to an investigation. It is a matter for the police Senior Investigating Officer (SIO), on a case-by-case basis, to decide what access to files is necessary to ensure an effective investigation. In arriving at the decision, the SIO should balance the competing issues and ensure that his or her decision and rationale, including all relevant information which impacted on the decision, is recorded in the 'Policy Book'.

5.11 If files are disclosed to the police, the local authority should be aware that the prosecution may be required to disclose these to the defence, in the event of a criminal prosecution. The prosecution is required to provide material to the defence which will form part of the prosecution case. Also, under the Criminal Prosecution and Investigations Act 1996, the prosecution has a statutory duty to disclose to the defence any unused material which may undermine the prosecution case or assist the defence case. This may lead to the disclosure of files in full or in part to the defence. However, in the case of sensitive material, it is open to the prosecution to apply to the court to withhold such material on public interest immunity grounds. In such circumstances, it will be a matter for the court to determine whether such files should be disclosed.

5.12 Both the prosecution and defence may also apply to the court for a summons requiring the production of social services files. In such circumstances, the local authority has the opportunity to oppose the application and it is open to the authority to seek to

withhold the material on public interest immunity grounds. Again the court will determine whether the files should be disclosed.

Information sharing between the NHS, the police and local authorities

5.13 The duty of confidentiality requires that unless there is a statutory requirement to use information that has been provided in confidence, it should only be used for the purposes of which the subject has been informed and to which he or she has consented. This duty is not absolute, but should only be overridden if the holder of the information can justify disclosure as being in the public interest. Decisions to disclose information without consent should be documented and the public interest justification clearly stated. The tests for disclosure without consent will often be satisfied in child abuse cases where the protection from harm and the prevention and detection of crime are the reasons for disclosure.

5.14 Whilst it is not entirely clear under law whether or not a common law duty of confidence extends to the deceased, the Department of Health and professional bodies responsible for setting ethical standards for health professionals accept that this is the case.

5.15 The General Medical Council (GMC) has produced guidance entitled *Confidentiality: Protecting and Providing Information* (2000). It underlines the importance in most circumstances of obtaining a patient's consent to the disclosure of personal information, but makes clear that information may be released to third parties – if necessary without consent – in certain circumstances. Those circumstances include the following⁵:

Disclosure in the Public Interest

'In cases where you have considered all the available means of obtaining consent, but you are satisfied that it is not practicable to do so, or that patients are not competent to give consent, or exceptionally, where the benefits to an individual or to society of the disclosure outweigh the public and the patient's interest in keeping the information confidential.' (Paragraph 18)

Disclosure in the Interests of Others

'Disclosure of personal information without consent may be justified where failure to do so may expose the patient or other to risk of death or serious harm. Where third parties are exposed to a risk so serious that it outweighs the patient's privacy interest, you should seek consent to disclosure where practicable. If it is not practicable, you should disclose information promptly to an appropriate person or authority.' (Paragraph 36)

'Such circumstances may arise, for example, where a disclosure may assist in the prevention or detection of a serious crime. Serious crimes, in this context, will put someone at risk of death or serious harm, and will usually be crimes against the person, such as abuse of children.' (Paragraph 37)

). Relevant extracts which should be read in the context of the full document.

5.16 Any information sharing about living, identifiable individuals between the NHS, the police and local authorities must then be carried out in accordance with the requirements of the Data Protection Act 1998. The Act does not apply to the deceased. Disclosure may be made under the Act provided that the processing complies with its eight enforceable data protection principles or can rely upon one of its non-disclosure exemptions.

5.17 The Data Protection Officer within an organisation is responsible for ensuring compliance with the Data Protection Act. Where there is any doubt as to the procedure to follow in order to ensure such compliance, advice should be sought from the organisation's Data Protection Officer in the first instance. See **Appendix F** for further information about the Act.

National Database

5.18 Gwent Constabulary has set up a database known as the Historical Abuse Database. The aims of the database are:

- a) to create a central collation point of information;
- b) to hold details of all persons who are or have been subject to police inquiries into complex abuse. (This will not include victim details.) Details are stored under three headings:
 - nominal details - full name, maiden or alias names, date of birth, place of birth, Criminal Records Office Number and Police National Computer Identification and gender
 - last known address - house name and number, street, town and postcode;
 - force name, operation name, name of Senior Investigating Officer (SIO), contact address and telephone number.
- c) to hold details of all current similar operations throughout the United Kingdom;
- d) to provide the link between forces engaged in such inquiries.

5.19 For an entry to be made to the database, completed registration forms must be sent by post to the Operation Flight office at Abergavenny Police Station, Gwent, where details will be entered by dedicated staff. To facilitate the supply of data for entry onto the database, forces (Heads of CID) have been supplied with a floppy disk containing a registration template (**Appendix G**). Where a match occurs on previously held information, the SIO in the case will be informed in writing and details of other forces given. It is a matter for the professional judgement of each SIO to decide who is entered on the database.

6. DISCLOSURE OF INFORMATION TO THIRD PARTIES

6.1 In the course of an inquiry, information about alleged perpetrators may sometimes need to be made available to individuals not directly involved but who are part of a recognised statutory agency. Nothing in this guidance should restrict the forwarding of information in circumstances where it is necessary to prevent the risk of further offending.

6.2 Disclosure decisions outside the framework of the statutory agencies have to be determined by the multi-agency risk panel relevant to where the alleged offender resides. The principles established in paragraphs 5.7-5.9 should be followed.

Disclosure of Unused Material to Defence

6.3 Investigations of this nature are subject to the same rules of disclosure as any other prosecution. The requirements of the Criminal Procedure and Investigation Act 1996, the Code of Practice made under that Act, the Joint Operational Instructions on Disclosure and the Attorney General's Guidelines on disclosure all apply. The identification of unused material for the purpose of disclosure is somewhat more complicated than in other HOLMES inquiries, which usually revolve around only one case. The material should be well documented and as in all cases, adequately described in the appropriate schedule, including a separate schedule of sensitive material. It is then a matter of scrutinising it to identify which material is relevant, and therefore subject to disclosure or alternatively to possible claims of public interest immunity. The disclosure officer is therefore a key individual who should be carefully selected and should have been fully trained. He or she can also seek legal advice (including from the CPS if necessary) on complex disclosure issues.

Compensation claims and civil litigation

6.4 A proportion of complainants in criminal prosecutions of this nature applies for compensation from the Criminal Injuries Compensation Authority (CICA) and/or sues for damages in the civil courts. In these cases the police will have to enter into correspondence with CICA and/or solicitors. Statements and previous convictions of complainants are the documents most often required by solicitors. Statements should only be released at the conclusion of all criminal proceedings. But consideration should be given to the time limits which exist for the submission of civil claims. The Senior Investigating Officer (SIO) should consider the competing needs of the individual and the investigation to ensure that applications for civil claims are not prejudiced. The release of other unused material should be considered case-by-case on the basis of a developed policy. As holders of such material the police should strike a balance to meet the requirements of:

- the rules in respect of 'discovery' in civil litigation (which are quite different from disclosure in criminal cases);
- the complainant and his or her solicitor;

- the local authorities or voluntary bodies subject of the litigation;
- the Data Protection Act 1998.

6.5 Where there are ongoing criminal proceedings, it may be appropriate for the SIO to consult the CPS about the release of material in such circumstances, as there is a potential to impact upon the ongoing criminal proceedings.

6.6 Civil litigation of necessity continues after criminal procedures and may have resource implications for the investigating force for a number of years after the criminal investigation is concluded. In some cases, the defence may claim that the victims are motivated to make the allegations by potential financial reward. It is important that the Strategic Management Group's policy and procedures on avoiding discussion of compensation are rigorously followed from the outset of the investigation (see paragraph 3.2 (k)). This will ensure that officers are not open to criticism for offering the prospect of compensation as a means of securing co-operation in an investigation which in turn may damage the credibility of the witness or cast doubt on his or her motives. In the event that the victim or witness raises the issue with the investigating officer and asks for advice about a claim or where he/she can obtain information, the officer should follow the procedures set out in the investigation policy. It is important to know if the investigating officer is made aware that a potential victim or witness is claiming compensation, and for this to be recorded and revealed to the CPS to decide if it is disclosable.

Referral of information about alleged abusers

6.7 The Waterhouse Inquiry report has noted the importance of adequate referral of information about suspected abusers. It is probable that an investigation will identify individuals who are suspected abusers but against whom prosecutions are not brought. If a suspected abuser is working with children in a child care position, or in the education service, it is essential that due consideration is given to releasing evidence and information to support disciplinary proceedings and to enable, where appropriate, the referral of suspected abusers to the Department of Health (for inclusion on the Protection of Children Act List) or to the Department for Education and Skills (for inclusion on List 99). Any actions/non-actions, and the reasons for taking them, should be recorded. Consideration should also be given to releasing evidence and information direct to the DfES to consider including a person on List 99 if the person is not currently employed with children, but has worked as a teacher, or in schools, in the past.

6.8 If the NSPCC are not involved in the investigative activity of the inquiry, consideration may be given to asking the NSPCC specialist investigation service to undertake an independent risk assessment. In addition to confidential assessment processes, these assessments should examine the values and attitudes of alleged abusers in line with recommendations contained in Norman Warner's report *Choosing with Care* (1991).

7. SUPPORT

Support for victims and witnesses

7.1 An unequivocal victim support strategy and protocol should be established at the outset. Support will be required in pre-trial, trial and post-trial periods. Minimum periods for contact should be established. It is clear from experience in previous investigations that many victims and families feel strongly that it is important that they remain in contact with the same staff throughout the investigative process. Guidance on witness support and preparation will be included in Chapter 4 of *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children*, currently in preparation as part of the implementation programme for *Speaking Up for Justice*. The guidance will be effective when Part II of the Youth Justice and Criminal Evidence Act is implemented. It includes National Standards for Young Witness Preparation.

Support for victims and witnesses during investigation

7.2 It is recognised that recounting past abuse may be profoundly traumatic for victims. Victims must be cared for appropriately, and it is important to be sensitive to their particular needs. For example, adult survivors of childhood abuse are likely to require different kinds of counselling support, and a judgement will need to be made about the most appropriate type of counselling available locally. There should be effective collaboration with local health services and independent counselling agencies to ensure that referrals to counselling and other mental health services can be made. Victims may need to be reassured about their health, including their sexual health and should be helped to access appropriate services. Some victims may prefer to be referred to small specialist agencies, rather than using the resources provided by statutory bodies.

7.3 Furthermore, the scale of the investigation often leads to a prolonged period between the complaint being made and its eventual finalisation. Victims and witnesses will often require a degree of support throughout this process and there is potential for conflict between the police investigative role and the provision of such support. The *Speaking up for Justice* report particularly recognised that victims of rape and serious sexual offences might require long term support once the criminal justice process is over, and in these circumstances recommended that both pre and post-trial support should be carried out by an organisation other than the police.

7.4 Particular problems may arise where witnesses are serving prisoners, and appropriate arrangements may need to be made in such cases (including keeping probation services informed). Police and social workers should make contact with the complainant at designated intervals in order to inform them of the current stage of the investigation. The Victim's Charter sets out the stages of the case when victims, or their representatives, must be made aware of developments. Regular contact also helps to ensure that during the interim period the whereabouts of the complainant are known. It is not uncommon for a witness to move address and forget to let the person supporting them know of the change in circumstances. In certain instances the involvement of the local social services where the

victim resides may need to be considered. The importance of regular contact with the victim cannot be overemphasised.

7.5 The experience of previous investigations has indicated that counselling services may be placed under considerable pressure by the demands generated during the investigative process. Certain investigations will involve large numbers of victims who may be identified simultaneously. In these situations, the strain placed on counselling services is most acute. This points to the necessity of involving senior managers in the resourcing and co-ordination of work from the outset and then keeping them adequately informed throughout the process.

7.6 In large-scale complex child abuse inquiries, there may be merit in setting up dedicated helplines to be available to inquiry subjects, their families and members of the public.

Support for victims and witnesses at court

7.7 The scale of the investigations often leads to a high number of complainants and witnesses being required to attend court in the event of a trial, and careful management is required to manage their support. It is often necessary for the victim or witness to wait in the court precincts for lengthy periods to give evidence. Additionally, the subject matter of the evidence and the cross-examination before a jury are traumatic for the witnesses. Some witnesses may be required to travel long distances to take part in trial and accommodation may need to be provided. Police and social workers should be available at court to provide support to witnesses in accordance with the established operational policy, which should take account of the potential for identified police/social work staff to be called as witnesses. Witnesses should be kept apart, and in some cases police officers and victims may also need to be kept apart to avoid allegations of collusion. The trial can be a drain on resources, particularly if some of the police officers and social work staff are involved as witnesses. Support for witnesses should be guided by the needs of the witness: the expertise of experienced Victim Support Scheme volunteers, including those from the Witness Service, should be considered and they should be consulted about other agencies which may be better able to support particular witnesses, for example those with learning difficulties.

7.8 In those cases where the police have been providing long-term support, for example as Family Liaison Officers, occasionally, immediately before the commencement of a trial, the defence object to continued support being given to a witness by specific police officers (where this is longstanding). The withdrawal of trusted support is frequently traumatic for the witness and planning should take account of such a possibility, with consideration being given to support being provided by another organisation.

7.9 It is essential to consider the effect, which the provision of counselling and other therapeutic services to victims and witnesses may have on the judicial process. For this reason, it is important that the police and the CPS are made aware that therapeutic support is proposed, is being undertaken, or has been undertaken. The nature of the therapeutic support should be explained so that consideration can be given to whether or not the provision of such support is likely to impact on the criminal case. The CPS will offer advice, as requested on individual cases, on the likely effect of the therapy on the criminal

process. However, the decision about whether, and if so in what form, therapeutic support should take place before a criminal trial is not a decision for the police or the CPS. It is for those responsible for the welfare of the child, in consultation with the child's carers and, where appropriate, with the child. Where therapeutic support does take place, it is important that a record of the therapy is maintained so that it can, if appropriate, be made available in the judicial process. More detailed guidance on these issues and more general issues concerning therapeutic support prior to a criminal trial can be found in the guidance *Provision of Therapy for Child Witnesses Prior to a Criminal Trial*.⁶ Guidance on the provision of pre-trial therapy for adult witnesses is shortly to be published, as part of the *Speaking up for Justice* implementation programme.

7.10 Whenever possible, the allocated social services team member or member of the Court Witness Service should be present in court when each complainant/witness is to give evidence. They should leave the court with the witness after evidence has been given and should then determine with the witness what immediate support they require. The immediate support should be provided by the social worker or the Court Witness Service member or the linked police officer individually or jointly, or by a counsellor, whichever the witness is most comfortable with. Further guidance may be found in *Achieving Best Evidence in Criminal Proceedings*, including National Standards for the Court Witness Supporter in the CCTV link room, in cases where the witness gives evidence by live TV link to the court room.

Victim aftercare

7.11 When the case is concluded the police should gradually withdraw from regular contact with victims. It is impractical, and often unnecessary, to maintain the levels of contact required before a trial. Nevertheless, it is recognised that the trial process can be as traumatic to a complainant as the initial making of their complaint. Social work staff may need to remain in contact for a longer period and gradually devolve any long-term support or counselling needs to appropriate bodies.

7.12 From April 2001, the National Probation Service (NPS) has a statutory duty to contact the victims of those offenders sentenced to 12 months or more for a sexual or violent offence. After a plea or finding of guilt, it would normally be the responsibility of the police to advise the victim that they are passing on the victim's contact details to the relevant probation area and give the victim the opportunity to opt out of the transfer of this information. At the same time the police should hand the victim a leaflet explaining the NPS's role. Within two months, the NPS would be in contact with the victim asking, among other issues, if they want information about how the prison system works and/or if they may eventually want to express a view about conditions attached to the prisoner's release. It is for the victim to decide if he or she wishes to be involved in this procedure.

⁶ *Provision of Therapy for Child Witnesses Prior to a Criminal Trial* (2001) Practice Guidance Home Office, Crown Prosecution Service, Department of Health

Staff Support

7.13 Support for members of the investigative team is the responsibility of the Strategic Management Group. Clear arrangements should be in place from the outset for both the seconded staff and linked management. These should include debriefing for all staff on the operation.

7.14 The potential impact of this type of investigation on staff should not be underestimated. Operational managers of investigative staff will need to possess excellent skills in team building, stress management and conflict management.

7.15 Existing difficulties in inter-agency co-operation may be inflamed by the stress associated with investigation into complex abuse. Issues such as the boundaries of confidentiality, resource scarcity and difference of professional opinion may heighten these difficulties. In addition, there may be difficulties within a particular agency for staff who are investigating colleagues or where there is tension between staff on the investigative team and their colleagues who are not involved directly but may resent being excluded from the high profile operation. It is strongly recommended that operational staff should never be in a position where they are investigating colleagues.

7.16 Management should therefore be alert to the needs of staff in relation to the points raised above and there must be provision of support and services to staff to assist them in their handling of the investigation. This may include the use of time-outs or provision of access to consultants providing staff support and counselling services.

7.17 The safety of the team should be considered as well. Victims of abuse may have had traumatic lives. Although many victims will have recovered and thrived since suffering abuse, the associated trauma may have given rise to mental health problems, violent or criminal behaviour. Some individuals may be very distressed when approached and the management of that process needs to be carefully organised. Particular caution will need to be exercised in approaching individuals who are alleged to have been perpetrators. Visits should not be made alone and protocols for staff safety and handling violence should be agreed and observed.

8. MEDIA HANDLING

8.1 No agency should underestimate the level of media interest in complex abuse investigations. The main task of handling the media should be assigned to a senior manager in each agency who is in close contact with the detail of the investigation. The Senior Investigating Officer should have an operational media strategy in place from the commencement of the investigation. It is vital that all statements to the media are cleared, via the Senior Investigating Officer, at the level of the Strategy Management Group, and that consistency is maintained throughout. Staff must have available to them a clear line of referral for media inquiries in order to ensure that statements are only issued by designated spokespeople. Individual agencies should not express independent views as to the conduct of the investigation.

8.2 If the media become aware of the investigation from the outset, there is a need to develop a strategy of meeting journalists to agree holding back or cutting out prejudicial material which may damage the investigation or, if that fails, to consider appropriate injunctions. There are many legal restrictions governing what might be said to the media during the course of criminal and/or care proceedings, including any injunctions that might be in force. It is therefore essential that legal advice is obtained before any information is released to the media. The investigation team should be aware of the potential dangers of uncontrolled or inappropriate media reporting on future criminal proceedings at the investigation stage. Many sensitive cases which have attracted significant media attention at the investigative stage are subsequently the subject of defence submissions on abuse of process and the inability of the defendant to have a fair trial because of the level and nature of media reporting.

8.3 When responses are given to questions posed by the media, these responses must be guided by the following principles:

- sensitivity to the victims and their families;
- concern to avoid further harm to young people;
- respect for the professional status of each agency;
- need for the content to be informed and informative;
- lawfulness;
- potential for harm to future criminal proceedings;
- need for the media to receive consistent messages from all agencies;
- sensitivity to the alleged abusers and their families.

8.4 It is essential that victims and their families are protected from the potential trauma that may be associated with media interest in their cases. All press releases should avoid identifying victims so that they may be shielded from media attention unless and until they need to attend court.

8.5 During the court process, the media may wish to interview victims and their families. This is almost certain to happen when an abuser is sentenced. Media interest may focus particularly on whether the sentences are severe enough, on profiling both the perpetrators and their victims and in describing the abuse suffered in great detail.

Allegations of “chequebook journalism” may be raised against victims or witnesses with a view to undermining their credibility (see paragraph 6.6 on the need to be aware whether or not payments have been made or offered to a victim or witness.) Such reporting is bound to cause distress to victims, witnesses and their families. One effective way of protecting them from exploitation and sensationalist reporting is for senior staff from the social services and the police to act as a channel of communication between the press and either the victim(s) or their families. It is essential that the Senior Investigating Officer is aware of all pre-sentence communications to ensure that the integrity of the prosecution is maintained.

9. CLOSURE AND REVIEW OF INVESTIGATION

Exit Strategy

9.1 Where closing a case, the following tasks should be completed as appropriate:

- Obtain final list of indictments. (Protection of Children Act 1999);
- Inform Force Intelligence Bureau for risk assessments and actions under the Sex Offenders Act 1997;
- Inform all complainants/witnesses of the result of the case;
- Inform all relevant agencies of the result of the case;
- Agree procedure for dealing with victims who identify themselves at a later date and/or victims who remember things after the event;
- Consider the need to offer continuing support to child victims and their families who have been in contact with the investigation;
- Consider the need to maintain contact with witnesses, giving particular consideration to child witnesses, who have given evidence in court proceedings and ensure provision of counselling where appropriate;
- If an offender is sentenced to one year or more, provide details of victims to the Probation Service and hand out copies of information leaflet to victims;
- Subject to any directions by the court, return exhibits 35 days after conviction⁷ or, if the defendant appeals, at the conclusion⁸ of any appeal.

9.2 Cases where the alleged perpetrator cannot be traced should only be closed on the authority of the Senior Investigating Officer (SIO), in consultation with a senior representative from the relevant social services department. The same authority is required for the disposal of cases where the alleged perpetrator has been traced but the CPS has decided not to proceed on the grounds of insufficient evidence or public interest.

9.3 All agencies should review the investigation once it is completed. The review should highlight any policies, procedures or discipline processes which need changing for the various agencies. The Area Child Protection Committee may already have conducted a serious case review under Chapter 8 of the *Working Together* guidance (although in some cases this may not be completed until the conclusion of court proceedings). It is good practice to conclude all major investigations with an 'overview' report highlighting the prime activities and findings of the inquiry with recommendations for future inter-agency learning. This may lead to both inter-agency and individual agency action plans.

Records to be Maintained and File Storage

9.4 The Code of Practice made under the Criminal Procedure and Investigations Act 1996 sets out the minimum requirements for record retention in all criminal cases and defines action to be taken by the police in the context of retention and disclosure of material held by third parties. It is considered good practice to maintain a central registry

⁷ Criminal Appeal Rules 1968

and file storage facility for all cases that come within this guidance. The holding agency should ensure that all documents and files used and/or generated in the process of an investigation are retained securely.

9.5 Agencies involved in such cases have differing requirements and are subject to a variety of regulatory and voluntary file retention periods. It is also necessary to cater for the production of material in connection with civil actions. The situation is currently unclear in respect of the detailed requirements of the impending Freedom of Information Act. It is recommended that, against the various needs of agencies, all original files be retained for a minimum period of six years from the date of the completion of the investigation (whether or not proceedings are instituted) in consideration of the fact that information contained in these files may be required in subsequent criminal and/or civil proceedings. Such material may also be relevant as supporting evidence for compensation claims to the Criminal Injuries Compensation Authority. Certain material may be relevant to subsequent investigation and/or enforcement action by a regulatory body such as the National Care Standards Commission.

APPENDIX A

Key Issues Highlighted in *Working Together*

Working Together highlights a number of important issues which should be addressed in all major investigations, and which should be reflected in local procedures:

- Bring together a trusted and vetted team from police and social work (either social services or NSPCC or both) to manage and conduct major investigations where a criminal investigation runs alongside child protection enquiries.
- Set out clearly the terms of engagement for the team. Emphasise the need for confidentiality.
- It is essential that the managers of the team have training and expertise in conducting investigations, legal processes, disciplinary proceedings, children's welfare and profiles and methods of abusers (in cases of sexual abuse).
- Team members need expertise in conducting investigations, child protection processes and children's welfare and should be committed to working closely together.
- Involve the most senior managers from involved agencies at a strategic level. They should ensure that the appropriate resources are deployed and staff is supported and should agree upon the handling of political and media issues arising from investigations.
- The police should appoint a Senior Investigating Officer of appropriate rank and experience and should consider the use of Major Incident Room Standards Administrative Procedures and the Home Office Large Major Enquiry System.
- Ensure that records are safely and securely stored.
- Recognise and anticipate that an investigation may become more extensive than suggested by initial allegations.
- Where a social services department's own staff or foster carers are being investigated it is essential to ensure independence and objectivity on the part of the social work team.
- Where it is practicable in the circumstances to conduct a rigorous and impartial investigation using the authorities own staff it is essential to ensure sufficient distance (in structural and geographical terms) between such staff and those being investigated. This means that the inclusion of staff members or managers from the institution or workplace under investigation should be considered with particular care.
- Begin every investigation with a strategy discussion to agree terms of reference and ways of working.

- Relevant areas for decision-making include the timing, parameters and conduct of the investigation; lines of accountability and communication; the safe and secure storage of records; the deployment of staff and resources; and a communications strategy encompassing members of staff, children and families, the media and SSI Social Care Region.
- Terms of reference should include assurances that the team will have full access to records and individuals that hold important information.
- Secure access to expert legal advice. The inter-relationship between criminal, civil and employment processes is complex.
- Use regular strategic planning meetings and reviews to consider the conduct of the investigation, next steps and the effectiveness of joint working.
- Always minute meetings.
- Agree clear written protocols between police, social services and other agencies in relation to all key operational and policy matters including information sharing.
- Consider first whether there are any children involved who need active safeguarding and/or therapeutic help and how this should be achieved in a way that is consistent with the conduct of criminal investigations.
- Make a thorough assessment of victims' needs and provide services to meet those needs.
- It is good practice to provide a confidential and independent counselling service for victims and families. Agree guidelines with counselling and welfare services on disclosure of information to avoid the contamination of evidence.
- Provide care and support for the investigation team – much of the work may be difficult and distressing.
- Put in place a means of identifying and acting on lessons learned from the investigations (e.g. in respect of policies, procedures and working practices which may have contributed to the abuse occurring) as the investigation proceeds and at its close; and
- At the close of the investigation assess its handling and identify lessons for conducting similar investigations in future.

APPENDIX B

Other key documents

- *Working Together to Safeguard Children*: inter-agency guidance to safeguard and promote the welfare of children
(1999) Department of Health, Home Office, Department for Education and Employment
(2000) National Assembly for Wales (2000)
- *Lost in Care*: The Report of the Tribunal of Inquiry into the Abuse of Children in Care in the former County Council area of Gwynedd and Clwyd since 1974 (February 2000)
- *Learning the Lessons*: The Government's Response to *Lost in Care* (June 2000)
- Response to *Lost in Care*
(June 2000) National Assembly for Wales
- Practice Guidance on the Investigations of Allegations against Carers and Professionals
(2000) National Assembly for Wales
- *Provision of Therapy for Child Witnesses Prior to a Criminal Trial*
Practice Guidance
(2001) Home Office, Crown Prosecution Service, Department of Health
- Framework for the Assessment of Children in Need and their Families
(2000) Department of Health et al
- *Child Protection: Messages from Research*
(1995) Department of Health
- The Investigation of Historic/Institutional Child Abuse – The Senior Investigating Officer's Handbook
(2001) ACPO
- *People Like Us*, the Utting Report of the Review of the Safeguards for Children Living Away from Home
(1997) Department of Health
- Government Response to the Children's Safeguards Review, LAC(98)27
- *The Young Witness Pack* (4-17 year old children)
Preparing Young Witnesses for Court
(1998) NSPCC

- *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses including Children*
Home Office – in preparation
- *Institutional abuse of children – from research to policy A Review*, H. L. Westcott
(1991) NSPCC/Wiley
- *Investigating institutional abuse by children*, C Barter
(1998) NSPCC/Wiley
- *Grappling with Smoke: investigating and managing organised sexual abuse*, B Gallagher
(1998) NSPCC/Wiley

NSPCC Specialist Investigation Services

Child Protection Risk Management in Complex and Large-Scale Abuse Enquiries: Protocol

1. Designated Risk Managers

A designated risk manager from within the enquiry team and a designated risk manager representing the relevant Social Services Department should be appointed at the commencement of the operation by the enquiry Steering Group.

Enquiry Team Risk Manager- A suitably experienced senior child protection practitioner from within the operational investigating team:

- To act as a central point of contact for the investigating Police officers/Social Workers/NSPCC officers to report risk indicators in relation to specific children and young people, which come to light during the course of enquiries.
- To act as a conduit of information to the designated risk manager representing the relevant Social Services Department.

Designated Risk Manager (Local Authority)-A suitably experienced second line Social Services Manager:

- To act as a central point of contact for the 'Enquiry Team Risk Manager' in order to exchange information regarding risk to children and young people subject to the enquiry.
- To ensure that protective action or intervention is undertaken by the Social Services Department and other relevant agencies.
- To attend and report to steering group meetings to appraise of risk to subject children and young people.

2. Risk Management Meetings

- To be held at regular and frequent intervals, attended by both designated risk managers.
- Each child or young person subject to the enquiry should be discussed and considered for formal inclusion or exclusion from the risk management process.

- A child or young person who has been formally included should be reviewed at every meeting in relation to increased or reduced risk and decisions should be agreed regarding protective action or intervention that may be required. For example: Social Work Intervention, Strategy Meeting under ACPC procedures, Child Protection Conference.
- The Social Services Department risk manager should collate a full record of each meeting and decisions regarding individual children.
- The Social Services Department risk manager is responsible for ensuring that appropriate area/team managers and/or allocated social work staff are appraised of decisions and action required.

APPENDIX D

RELEVANT RECORDS

What follows is not intended as an exhaustive list and may well vary depending on the nature and extent of specific operations.

1. Case-specific inquiries

- Registrar – Births, Marriages, Deaths
- Land Registry Office
- BT Archives – Obsolete telephone directory
- Press Archives – Photographs and other information
- Local Historians – Photographs and other information
- DVLA – Vehicle Records
- Local Authority Archives
- Organisational Records, e.g. Army, Sea, Air Force Cadets, Church Groups, Youth Clubs, etc.

2. Health Authority

- Local Authority Health Records
- Hospital Records
- GP records
- Records held by other health services e.g. dentists, therapists etc.

3. Education

- Strategic Policy or Procedure Contemporary Documents
- Head teachers
- Events Register
- Punishment Register
- Attendance Register
- Staffing Records
- Building Records
- Plans
- Room/area purposes

4. Social Services

- Strategic Contemporary Records
- Policy or procedure documents, e.g. corporal punishment, staff/client contact, general 'punishments', pocket money, funding arrangements
- Organisational structures and processes records
- Minutes of key decision making meeting Internal review reports
- Establishment Records
- Structure, use of buildings, photographs and plans

- Registers, e.g. attendance, staffing, absconders lists, medical/injury, punishment, running log, events books, financial records of expenditure, e.g. pocket money, gifts, etc.
- Social Workers visits and reports
- Councillors/lay visitors' reports and records
- Staff comments, communication records
- Staff Records
- Personal details, e.g. full name, date of birth, addresses, NI number
- Employment history to include all deployments
- Referees, interview panel records
- Disciplines history (to include any undercurrent concerns)
- Photographs, descriptions (contemporary)
- Child Records
- All personal child files – HQ, Area, Foster, etc.
- Birth certificate
- NHS number

5. 'Private' Homes

- Material outlined in context would be relevant.

APPENDIX E

RECORD KEEPING PRE-CHILDREN ACT 1989

Foster Care

The key Regulations here are the *Boarding Out of Children Regulations 1955*. The Regulations required:

- Reports to be made of all visits;
- Complaints to be recorded;
- Conclusions of reviews to be recorded;
- Case records to be preserved until the person becomes or would become 21;
- A register to be kept of children boarded out in a local authority's areas with particulars of child on commencement, ending of the placement and reason for the termination of the placement. Each volume of the register had to be kept until 5 years after every child included in it became 18.

The Regulations set out the minimum period records were to be retained, but not the maximum periods.

Residential Care

Between 1956 and 1991, the key regulatory requirements relating to records held by residential care providers were found in the:

- *Administration of Children's Homes Regulations 1951*
- *Approved Schools Rules 1933* (applicable until replaced in 1972)
- *Community Homes Regulations 1972*

These required:

- Records to be kept on the conduct and management of the home and registers to be kept of children and young people admitted to them;
- Homes to be subject to monthly visits;
- However, there was no requirement to produce reports on individual children. Some of these reports may refer to individual children but their main purpose was to deal with the conduct of the home and the care of the children within it. None of these regulations included a specific requirement to retain records for any period but the normal practice was to do so for between 3 and 5 years.

Approved Schools

In the case of former Approved Schools and in many local authorities, monthly reports were often submitted to the Board of Managers. As such it is possible that they may have been

retained as part of the papers in official archives of their proceedings. The 1972 Regulations included specific requirements for recording information on death, illness and accident.

Generally the assumption seems to have been that the records would simply be kept for a reasonable period. Children previously in the care of local authorities would have had an individual file. All approved schools and larger residential homes kept registers of children admitted and discharged. The Assessment report within the Approved School system would be destroyed when an individual reached 21 or 25 or 3 years after discharge.

Recording daily information on individual files was not common practice although it did grow over time. Most information of this kind found its way into unstructured records such as the home or unit daybook with only summary information being included in formal records or within individual records where they were kept.

Some records on approved may still be held by national childcare charities or have been archived by them under local arrangements agreed with Councils.

RECORD KEEPING AFTER THE CHILDREN ACT 1989

9. The Children Act 1989 record-keeping requirements are found in four sets of closely related Regulations, which provide a comprehensive framework for record generation and retention covering the child, the placement and the provider of care. These are:

- *The Arrangements for Placement of Children (General) Regulations 1991*
- *The Foster Placement (Children) Regulations 1991*
- *Children's Homes Regulations 1991*
- *Review of Children's Cases Regulations 1991*

10. The *General Regulations* apply to all children placed by local authorities on or after October 1991. Every child is to have a separate case record. Information on the case record should be shared with the placement.

11. The Regulations provide that records are to be kept securely and treated as confidential and must be retained for 75 years from the birth of the child, or if the child dies before reaching age 18, for a period of 15 years from his death. The records held by homes and foster carers are also covered by the new Regulations with clear requirements for retention of information. These provisions include a responsibility for the person in charge of a children's home to record precisely where the file, or components of a record have been transferred. Records relating to foster parents are to be kept for at least 10 years from the date on which approval is terminated or the foster parent dies.

APPENDIX F

PRINCIPLES GOVERNING LAW RELATING TO DISCLOSURE OF INFORMATION

- Public authorities cannot disclose data unless they are empowered by statute, by common law or by prerogative power to do so. At common law, the police may disclose confidential information provided that the disclosure serves a policing purpose (and an investigation into complex abuse is of course a policing purpose), and provided that no other rule of law is thereby contravened.
- The **Crime and Disorder Act 1998** contains a provision (section 115) allowing the exchange of data between "relevant authorities", including the police and local authorities, despite any enactment to the contrary, if this is necessary or expedient for the purposes of any provision of the Act. This may not be relevant during the main phase of an investigation, but could become so where the police contemplate applying to the courts for a Sex Offender Order (section 2 of the same Act). Exchanges of information made under the authority of the Crime and Disorder Act must comply with any relevant common or statute law, including the Data Protection Act 1998 (see below).
- The **Data Protection Act 1998**, which applies to personal data held in structured manual files as well as on computers, allows the processing (including disclosure) of sensitive data, including data relating to a person's alleged offences, if, among other things, this is necessary for the purpose of legal proceedings; the administration of justice; or the exercise of the police statutory or common law functions, or of any functions of the Crown, Ministers, or a government department. The processing must also comply with the Act's eight data protection principles, which require, among other things, personal data to be processed fairly and lawfully; only disclosed in appropriate circumstances; accurate, relevant, not held longer than necessary; and kept securely.
- The Data Protection Act provides exemptions from some of its provisions, which would otherwise prevent disclosure, in any case where the disclosure is for the purposes of the prevention or detection of crime or the apprehension or prosecution of offenders, and where failure to disclose would be likely to prejudice those objectives.
- Further information about the Data Protection Act is available from the Office of the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. The telephone number is 01625 545745. The Commissioner also operates an informative website at www.dataprotection.gov.uk.
- Every accused person is entitled to a fair trial and this is guaranteed under Article 6 of the **European Convention on Human Rights**. Fair disclosure to an accused is part of a fair trial, while recognising that other interests need to be protected, including those of victims and witnesses who might otherwise be exposed to harm.
- The **Criminal Procedure and Investigations Act 1996**, the Code of Practice made under that Act and the Attorney General's Guidelines on disclosure govern the

disclosure of unused prosecution material to the defence. Guidance to the police and CPS is contained in Joint Operational Instructions. The 1996 Act applies to all criminal investigations begun on or after 1 April 1997 and provides for a two-stage disclosure process. As soon as reasonably practicable after a “not guilty” plea or committal or transfer, the prosecution must disclose to the defence any prosecution material that has not previously been disclosed (e.g. as part of the prosecution case) and which might undermine the prosecution case (primary disclosure). In Crown Court cases, the defence is required to provide, within 14 days of primary disclosure by the prosecution, a statement setting out in general terms their defence and particulars of any alibi witnesses. On receipt of the defence statement, the prosecution must as soon as reasonably practicable disclose any further material which may reasonably be expected to assist the accused’s defence, as disclosed by the defence statement (secondary disclosure).

- Throughout the case, the prosecution is under a continuing duty to keep under review whether material should be disclosed to the defence. After the defence has provided a statement, the 1996 Act enables them to apply to the court for an order requiring the prosecution to disclose material if the defence considers that the prosecution has failed to comply with the Act. Where the prosecution holds sensitive material that meets the criteria for disclosure under the 1996 Act, consideration needs to be given as to whether an application should be made to the court to withhold this material on public interest immunity grounds. Any decision to withhold such material from the defence is a matter for the court to determine.

APPENDIX G

REGISTRATION TEMPLATE FOR NATIONAL DATABASE

H.A.D BUREAU Operation Flight Abergavenny Police Station Tudor Street Abergavenny NP7 5YL

Last Name

First Name

Other Name

Date/Place of Birth

Gender
 Delete as Applicable

Last Known Address

House Name **House Number**

Street Name

Locality

Town

Post Code

PNC **CRO No**
 Delete as Applicable **Pnc Id**

Details of Police Force Owning Data

Police Force

**Operation
Name**

**Contact Address/
Tel No**

Print
Name

Officer in Charge

Signed
by SIO
or
Deputy
Only

**Officer in Charge
Date**

For use at HAD
Bureau Only
Officer Receiving

Date