



ACHIEVING BEST EVIDENCE PROTOCOL

Introduction

The Working Together to Safeguard Children (2013) document highlights that we all share in the responsibility for safeguarding and promoting the welfare of children and young people. Through joint investigations and working effectively together we will improve outcomes for children and young people.

The investigation of allegations of child abuse is a crucial stage in protecting children. Although other agencies will be involved in aspects of the investigation process the Police, Social Care and Health are primarily responsible for the investigation. This Protocol is designed to help all staff to work together.

The Protocol will make reference to the formal investigative interview, but detailed knowledge of 'Achieving Best Evidence (ABE) in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children (2011) ('ABE') is a requirement for investigating officers. Although ABE is a practice guide for investigative interviews in the context of a possible criminal prosecution, the final outcome of the interview will not be known at the time.

This document offers an agreed way of working which will ensure:

- The process minimises distress to the child.
- Child protection procedures are complied with.
- Mechanisms are available to resolve differences of opinion.
- The processes can be monitored and recorded.
- That special measures are available as described in ABE.
- All investigations will be carefully planned to ensure that proper assessment, language needs and welfare issues are met.

Purpose of Enquiry

- To ensure the protection of the child is paramount.
- To obtain as far as possible, evidence as to whether abuse has resulted/or is likely to result in significant harm.
- To provide an effective, coordinated approach for dealing with child protection referrals where it is alleged that a child is suffering or is likely to suffer significant harm.
- To ensure the child feels listened to.
- To ensure the child receives appropriate help (e.g. protection and/or medical attention).
- To help keep to the absolute minimum the number of times the child is interviewed and medically examined.
- To ensure that relevant parents/ carers, where appropriate, are involved in and informed about the enquiry and are prepared for any child protection conference, which may follow.
- To create the basis for future help and support to the child and family on a planned coordinated basis.
- To obtain the best evidence for any future trial and hearing.
- To ensure an accurate record is maintained on the enquiry and decision making process.
 - To ensure post enquiry intervention strategies are in place.

Strategy Discussion/ Meeting Thresholds for Enquiries – Both Joint and Single Agency

Preliminary enquiries should usually be undertaken by all relevant agencies before the strategy discussion/ meeting

All decisions about intervention levels should be made at the child protection strategy discussion this will include whether or not a single or joint child protection enquiry will take place.

Single Agency Enquiries

Where it is agreed that single agency enquiries will be made either agency must feedback to all other agencies involved.

Planning the Joint Investigation

This is a crucial stage of the investigation

Strategy Meeting/ Discussion

When it has been decided that a joint investigation will be undertaken, the Social Care Team Manager, Community Paediatrician and Police Sergeant will plan the investigation and agree timescales and staff.

Formal recording of the strategy meeting will be the responsibility of Social Care, they will disseminate minutes to all participants within 3 days.

The aim of the meeting/discussion is to agree objectives and individual roles within the investigation. The focus of the discussion is to make decisions on how the investigation will proceed.

All investigations must be carefully planned and recorded, even in urgent situations.

The discussion may be by way of a meeting for complex cases with the involvement of appropriate line managers or when the referral is straightforward, the discussion can be by telephone between all the relevant agencies.

The outcome of the meeting/ discussion will be recorded to include:

- Decisions taken
- Reasons for decisions
- Identification of roles
- Timescales and contingency plan

If a medical examination is required this should be following the ABE interview.

Some referrals may require immediate protective action. These referrals require an urgent response and the child must be seen to assess their immediate safety and welfare on the day of referral:

- Severe neglect
- Serious physical injury or threat of physical injury.
- Allegation of sexual abuse where there is a risk of further abuse

NB – The criteria for enquiries at this stage is ‘reasonable cause to suspect’ and discussions in respect of these 3 categories should be made with this in mind.

Referrals concerning Child Sexual Exploitation or concerns about E-Safety may require extensive planning, especially if the child does not regard themselves as a victim or the offence has been discovered rather than disclosed by the child. This may require more than one strategy meeting/ discussion to plan how to proceed.

Assessment of Risk

A decision must be made on whether the child is safe to remain at, or return home. Some exploration of the following issues must be made at the investigative stage:

- Seriousness of any injury/ abuse.
- Is the abuse current?
- Previous injuries/ abuse.
- Availability of a protective person – have they demonstrated a willingness/ability to protect?
- Any history of family violence?
- Any history of parenting and any previous concerns?
- History of drug abuse, alcohol abuse or mental illness.
- What supportive networks are available?
- Can the child take action to protect him/herself, (e.g. if an older child, or is the child afraid to return home)?

There may be other relevant factors to consider in compiling assessment of risk –these are not exhaustive. It is important that the child's views are taken into consideration and recorded. It is also important to be mindful of pressures to which children may be subjected.

The Investigative Interview

Planning the actual interview with the child must be undertaken following a holistic assessment of the child's needs.

Main principles:

- All interviews will be undertaken in accordance with the guidance contained in ABE.
- The interview will normally be recorded by way of a DVD recording or a written statement having regard to the age and understanding of the child.
- The interview plan will take into account any special needs of the child.
- The investigating professionals will carefully plan the interview by determining for example:
 - The child's development level
 - Who should lead the interview

The assessment prior to the interview with the child should so far as possible adhere to the following basic principles:

- The Pre-Interview Checklist as outlined in Achieving Best Evidence in Criminal Proceedings Box 2.7
- Listen to the child. Any question directed to the child at this stage must be in accordance with ABE.
- Never stop a child who is freely recalling significant events.

An accurate and detailed record of a discussion must be made. If the discussion includes a disclosure of abuse, that part must be recorded verbatim and contemporaneously or, at the very least, as soon as possible after the contact. Times and persons present should be included.

- Record all subsequent events up to the time of the substantive interview.
- Even if no disclosure of a potential criminal offence is made, accurate recording is essential as decisions about risk may be made on the strength of them.
- If there are concerns in respect of other siblings in the household, the issue of contamination of evidence will need to be addressed.

Consent of the Child

Where the child has sufficient understanding, consent must always be obtained from the child and to enable consent to be given, adequate information must be given regarding the purpose of the interview. Refusal of consent must be respected however consent is not necessary from the child (although it unlikely to be practicable or desirable to record an interview with a reluctant or hostile child).

Following the interview, if it is apparent that a criminal prosecution may follow and that the child will be required as a witness, then both the child and appropriate carers should be fully informed of the implications of such a course of action. At no point must a child, parent(s) or carer(s) be led to believe that the Court will not require the child's oral evidence.

Parent/ Carer Involvement

In the majority of investigations it is expected that concerns will be shared with the parents/ carers before the child is seen. As a general rule information should be shared with parents/carers unless to do so would affect the safety and welfare of the child or other children, or be detrimental to the criminal investigation. If a decision is made not to inform the parents/ carer the reasons must be recorded. The needs and safety of the child must be the first consideration when determining at what point parents/ carers should be informed of concerns. The child should never be interviewed in the presence of an alleged or suspected perpetrator.

Unless the child has sufficient understanding to agree to being interviewed in his/her own right the agreement of a:

- i) Parent or
- ii) Person with parental responsibility or
- iii) Authorisation by a court is required.

The investigating team may need to interview a suspected child victim without the knowledge of the parent or carer in certain situations. This might include the possibility that a child would be threatened or otherwise coerced into silence; a strong likelihood that important evidence would be destroyed; or that the child in question did not wish the parent to be involved at that stage, and is competent to take that decision.

In all cases where the police are involved, the decision about when to inform the parent or carer will have a bearing on the conduct of the police investigation, and the strategy discussion should decide on the most appropriate timing of parental participation.

It is not good practice, from an evidential perspective, for a parent to be allowed in an interview or in the monitoring room particularly if the parent has taken disclosure from the child.

The Child Who Becomes a Suspect

Children who are being interviewed as witnesses may make a statement during the interview that implies they are also abusers or disclose they have committed other crimes. If a child victim appears to be a suspect during the course of an interview, a decision will have to be made on whether to proceed or terminate the interview. Whilst immunity cannot be promised this should be discussed further to decide a course of action.

If it is concluded that the evidence of the child as suspect is paramount in a particular case, the interview should be terminated so that any further questioning can be carried out in accordance with the Police and Criminal Evidence Act 1984 guidance.

Longer Term Planning

Some investigations will go on to an initial child protection conference, which will consider whether:

- The threshold criteria for 'significant harm' have been met.
- Any necessary legal action to protect the child.
- The child and family's therapeutic needs.

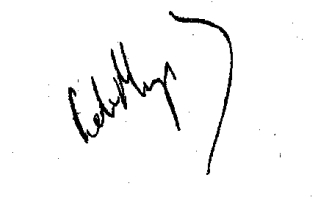
The following issues will need to be addressed if criminal proceedings take place:

- Involving the child in the decision making process – informing him/her that the DVD will be played in court and they will be cross-examined, obtaining the child's consent to do this.
- Preparation for the child for court. Enabling the child to view the DVD to refresh their memory.
- Guidance to the child and carers on the court process.
- Identification of the responsible adult in relation to child witness pack.

Monitoring and Reviewing Arrangements of this Protocol

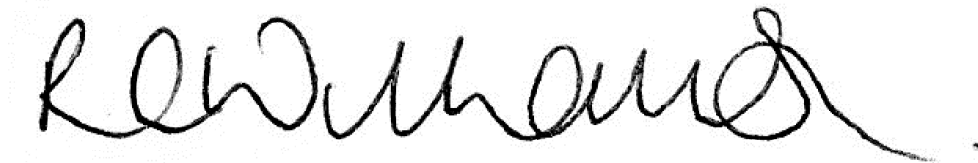
- There will be regular meetings/discussions between Police and Social Care to monitor arrangements contained within the Protocol.
- It is recommended that twice a year Police and Social Care should meet to review working arrangements to ensure that good practice is promoted in this process.
- Police and Children's services commit to deliver comprehensive training to all professionals undertaking joint ABE interviews and this training should be promoted by all relevant agencies.

Social Care

A handwritten signature in black ink, appearing to read 'Peter Murphy', enclosed within a large, hand-drawn right-facing curly bracket.

Peter Murphy

Police

A large, cursive handwritten signature in black ink, which appears to read 'Rachel Williams'.

Rachel Williams

Community Child Health

A handwritten signature in black ink, which appears to read 'M. Bredow'.

Maria Bredow