

Prosecuting Cases of Child Sexual Abuse Consultation

Response: Office of the Police and Crime Commissioner for Cleveland

1. Do you agree with the new approach of the CPS to cases involving child sexual abuse?

The Office of the PCC in consultation with partners felt the approach by CPS to be a positive step forward by placing the onus of an accusation's validity not only on the victim but on the strength of probability and the character of the accused.

There is general agreement with the approach but it is not totally clear whether it includes Adult Survivors of childhood sexual abuse. The acknowledgment that pre-trial therapy for Victims of Sexual Violence is appropriate when undertaken with the correct protocols in place is welcomed.

2. Is it right that we should focus on the overall credibility of the allegation rather than the victim?

The Office of the PCC in consultation with partners felt the approach removed obstacles and barriers which prior to the new approach often stopped witnesses pursuing cases.

Focus should be on the credibility of the allegation and NOT the credibility of the Victim.

A victim's behaviour before, during or after abuse is totally irrelevant to the fact that abuse has taken place. As we know in the majority of child abuse cases the perpetrator is known to, or is related to the victim so the dynamics of any relationship between victim and perpetrator cannot be scrutinised and used to measure the likelihood of abuse taking place, for example: A child who is attached to and fond of her uncle, visits him alone and is affectionate to him may have been, intimidated, coerced, groomed, blamed or threatened with family breakdown if she reveals he is in fact abusing her, so she behaves in the best way she can to minimise harm to herself and her family. Perceived compliance in these cases cannot be questioned in the way consent is in adult cases, it must be understood and taken into account by Police and Prosecutors.

A victim of abuse is likely to self-blame and seek an explanation for the abuse they have suffered, they may be convinced that they have in some way brought about the abuse on themselves, if they are questioned in a critical way or if their credibility is undermined they may lose confidence in their

knowledge of events leading to weakness in their account of what has happened.

3. While the list of criteria for the suspects is non-exhaustive, have we got the factors right? (See paragraph 63)

The Office of the PCC in consultation with partners felt the list was a useful tool as a guidance, however a cautionary caveat should be included indicating its limitations. A concern was that the list of criteria could be adopted as a directional list and used as a reliable checklist to pursue suspects.

Noted that the list is non-exhaustive and that in the main the factors are right

4. Would it be helpful to have an Annex setting out 'myths and stereotypes' surrounding this type of offending? If so, please provide details of 'myths and stereotypes' that would be useful in the circumstances.

It would be helpful to include a myths and stereotypes section that could include:

- Children are always molested by strangers
- Incest only happens in lower class or rural families
- It only happens to girls
- Children lie about abuse to get attention or to get adults into trouble
- Child sexual abuse happens rarely
- If it was really happening the victim would have told someone
- Women don't sexually abuse children

The list of Myths and Stereotypes relating to Sexual Violence and Abuse is huge and in spite of all the work that has been done and all of the progress made within the Police and CPS and other professional arenas, the general public, who make up Juries are unfortunately in the main uneducated regarding the realities of abuse and sexual violence. They can have entrenched beliefs and values which can colour their opinions of what is 'real' rape and what is not.

Hearing cases of Rape and Serious Sexual Offences in front of a panel of 3 Judges in a Crown Court setting and not by a jury would eliminate verdicts that could be based on the values and principles of individual jury members. Without any knowledge of sexual violence it is difficult for a juror to understand how a victim can hate the abuse but also love the abuser. It is easy for the juror to be persuaded by a defence argument that if the victim loves the abuser then the abuse is unlikely to have taken place, surely a 'real victim' would hate their abuser???, This is why these cases should be heard by experienced Judges who know that so many victims do NOT disclose abuse for years because they love their Father or Brother or grandfather or uncle despite the abuse and they Do Not want to hurt them or upset the family.

Myth: Sexual assault results from an uncontrollable sexual urge of biological origin. Men assault impulsively and out of biological need.

Fact: Sexual assault is a criminal act of violence, using sex as a weapon. Men assault to express hostility and to dominate. Men assault because it allows them to express anger and to feel powerful by controlling another person. Studies show that 50% of sexual assaults are premeditated and well-planned, not impulsive, spontaneous, uncontrollable sexual acts. This supports the view that sexual assault is learned behaviour and does not arise from just biological need.

Myth: Sexual assaults are usually reported.

Fact: Sexual assault is probably one of the most under-reported crimes; researchers estimate that 50–90% of sexual assault cases go unreported.

Myth: Because of a few violent incidents, the issue of sexual assault tends to be over-dramatised.

Fact: At least 1 in 4 women and 1 in 6 men are or will be victims of sexual assault in their lifetime.

Myth: Most sexual assaults occur in dark alleys or to hitchhikers.

Fact: Most sexual assaults (60%) occur in a private home, and the largest percentage of these assaults (38%) occurs in the victim's own home. The idea that most sexual assaults fit the "stranger-in-a-dark-alley" stereotype can lead to a false sense of security.

Myth: Men cannot be sexually assaulted.

Fact: Men, both heterosexual and homosexual, are sexually assaulted, and usually by other men. 1 in 6 men are or will be victims of sexual assault in their lifetime

Myth: Sexual assault happens to careless people who are "asking for it" by the way they dress or where they are.

Fact: No one asks to be assaulted. All kinds of people, young and old, are sexually assaulted in all kinds of places and at all times. The idea that victims provoke assault by "being in the wrong place at the wrong time" assumes they have no right to be as free as you. This myth shifts the blame from the perpetrator to the victim of this crime. No one "deserves" to be sexually assaulted. No one "asks for it."

Myth: People often lie about being sexually assaulted.

Fact: Police statistics show that the number of falsely reported sexual assaults is less than that of other crimes.

Myth: A prostitute will not be traumatized by a sexual assault. After all, having sex is her/his job.

Fact: A sexual assault can be just as traumatic to an experienced prostitute as to anyone else, and she or he has as much right to treatment, protection, and justice. Rape is a crime of violence, not simply a sexual act.

Myth: With sexual assault, the person who is sexually assaulted is the only one who suffers.

Fact: Sexual assault affects the victim's family, friends, and others who care for them. The fear of sexual assault affects almost all women. The economic costs of sexual assault affect us all.

Myth: If someone agrees to some degree of sexual intimacy, they want to have sexual intercourse.

Fact: A person may feel comfortable with one kind of sexual activity but not wish another — or they may decide they are not really ready for further intimacy. A person has the right not to go any further if they do not wish to.

Myth: It's only sexual assault if physical violence or weapons are used.

Fact: Sexual assault is any unwanted act of a sexual nature imposed by one person upon another. Sexual assault is any type of sexual contact or behaviour where consent is not freely given or obtained and is accomplished through force, intimidation, violence, coercion, manipulation, threat, deception, or abuse of authority.

Myth: The greatest danger is from a stranger.

Fact: Most sexual assaults, 80%, are committed by someone the victim knows (family member, friend, dating partner, spouse, neighbour, coach, teacher, doctor, etc.).

5. What more can the CPS do to support the victim and witnesses through the court process?

The Office of the PCC in consultation with partners felt that CPS could aid the victim by adopting the approach used in Liverpool where vulnerable adults are given one key worker who works with the victim through all processes including courts. The journey of the victim does not stop after the court case and regardless of outcome the key worker stays with the victim to explain the process.

CPS should offer training to professionals who may be asked to support victims in the Live Link room. It is now recognised that some victims need a trusted supporter to be with them when giving evidence, this role is often that of the ISVA, We would like the CPS to acknowledge the professionalism of the ISVA role and work in partnership with them, training them to take on the role of live Link supporter for those victims who would benefit from support when giving evidence.

Witness warning letters currently give a list of all the indictments in the cases. This can result in all witnesses in the case seeing everything relating to all victims and witnesses. This is alarming for victims and is impersonal, the victims and witnesses should have letters individual to them, not a generic letter sent out to everyone.

In the event of adjournments or delays or changes in events, victims should be given clear explanation of why things are happening, this should be the responsibility of the Case Worker who has the relevant information. Often it's left to the Witness Care Unit or the ISVA to pass on the fact that there is a delay only to be asked 'Why?', If the CPS case worker took on this piece of work it would keep the victim engaged and feeling valued. The process becomes frustrating for victims especially when there are unexplained delays, they feel that there is something drastically wrong with their case, an honest explanation of why there is a delay would be the way forward, we know that victims appreciate being kept involved and that they stay engaged with the process when they feel valued within it

6. Do you have any further comments on the Interim Guidelines on Prosecuting Cases of Child Sexual Abuse?

Paragraph 9

Should either include full definition of Child Sexual Exploitation as in Appendix B of this document, or make reference to it.

Paragraph 19

Achieving Best Evidence, add, 'should be followed closely'.

Paragraph 21

Reference to ISVA should be made here.

Paragraph 25

Pre trial court visit with ISVA should be referred to.

Paragraph 26

ISVA or Barnardo's should be included.

Paragraph 34

Reference should be made to ABE again here.

Paragraph 36

'Streetwise'. No child should be referred to as such, this is one of the myths as in para 76. A child demonstrating bravado or self preservation techniques is not actually streetwise but is actually more vulnerable.

Paragraph 51

Could be made clearer that children known to social care or in/ having been in care of local authority usually have additional vulnerabilities.

Paragraph 55

Reference to National Working Group Child Sexual Exploitation Risk Assessment Tool should also be made here as it gives more examples of behaviours that may be seen in a sexually exploited child.

Paragraph 59

Victims may also have committed criminal acts whilst under control of the perpetrator. The perpetrator then uses this as an additional means of controlling the victim and persuades them that they will not be believed by protective adults.

Page 19

Fourth bullet point. Remove 'lifestyle' and use the term 'life circumstances' instead, to remove implied choice.

Paragraph 76 Myths

Children are not 'streetwise', they may demonstrate behaviours suggesting they are overly confident but this generally indicates underlying vulnerabilities and the child is over compensating for it.

Page 38

Grooming - Reference should be made to the Sexual Offences Act 2003 here.

In general specialist courts with a specialist judge ought to be responsible for any child abuse/exploitation cases and not be held in an open court arena.