

 **Sexual Abuse**

 **evidence, fact finding and assessment**

**" Everything you wanted to know but were afraid to ask"**

 by Cyrus Larizadeh

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1. **GENERAL**
2. Understanding the effects of sexual abuse on children. Research by Kendall et al (1993)
3. Importance of securing findings for the child - child’s right to know to truth

**Re K (Non –Accidental Injuries: Perpetrator: New Evidence (2005) 1 FLR 285**

1. Ensuring just outcome for the alleged perpetrator
* right to fair trial
* correcting inaccuracies
* avoiding generalisations
* redressing the imbalance
* providing starting point and basis
* repairing the damage

importance of representing ‘monsters’ and those who ‘nourish serpents’

1. **EVIDENCE IN SEXUAL ABUSE CASES**

**A Forensic Evidence**

It is very rare to find forensic evidence which will prove that a child has been sexually abused.

It is essential that the practitioner is familiar with. the guidance for best practice in cases involving physical signs of sexual abuse. The Royal College of Paediatrics and Child Health has produced the definitive **guide “The Physical Signs of Sexual Abuse”** Handbook which sets out all the key features to look out for.

 Theis J sets out guidance and highlights pitfalls

**A Local Authority v C [2011] EWHC 231**

* **Guidelines:** Theis J recorded that the court's ability to focus on the extent of and cause of the child’s (“A”) injuries was hampered by the failure of some of the clinicians to follow the RCPCH Guidelines[[1]](#footnote-1) and internal NHS Trust guidance.
* **Strategy Meeting:** A should not have been discharged from hospital before there had been a strategy meeting.
* **Colposcope**: The use of a colposcope, or other options, should have been considered.
* **Parental Consent:** Insufficient attention was given to the parents' consent.
* **Injuries suggestive not diagnostic:** The judge could not be satisfied, on the balance of probabilities, that A's injuries were a result of her being sexually abused by the father, the injuries being suggestive of such abuse but not diagnostic of it.
* **Expert Evidence:** The expert evidence of a Consultant Paediatrician and a Consultant Community Paediatrician was at best equivocal about sexual abuse being the cause of the injuries, neither expert agreeing that it was the **most likely cause of the injuries**.

The judge ended her judgment with helpful "lessons to be learnt":

**RCPCH guidelines:** Anyone who does this type of work must not only be familiar with the RCPCH guidelines, but the **expectation that they are followed**, in the absence of good reason. This includes compliance with the guidance in terms of **written records** (including line drawings) of examinations

**Terminology**: Precise terminology is essential when describing injuries to the genital area. The recommended terms in the RCPCH Guidance should be used.

**Record and document the examination positions:** A record (still photographs, video, CD, DVD) of the genital/anal findings must be obtained. If the images do not demonstrate the clinical findings the reason for this should be in the notes."

**DVD Recording**: Mr Justice Baker’s observations in *A London Borough Council v K* were endorsed as to recording the examination on DVD, namely:

* + The examination should, wherever possible, be recorded on DVD.
	+ Great care taken about the management/disclosure of these images.
	+ Clinicians should inspect the DVD before completing their written record of the examination. They should note what the DVD demonstrates and in particular whether it conforms or contradicts what they saw in reality.

 **B Classification of Evidence**

Dr Weir’s framework on evaluating whether a child has been sexually abused (as updated in March 2006) provides an excellent guidance on the key evidential issues

Evidence that a child has been sexually abused can be broadly classified into a number of areas:

1. Allegations of abuse made by the child.
2. Allegations by an adult as a result of conversations with the child, observations of the child or suspicious circumstances.
3. Evidence that the child is unduly preoccupied with sexual matters; shown in sexualised play or behaviour, or unusual sexual knowledge.
4. Circumstances (see below) in which the risk of child sexual abuse is higher.
5. Non‑specific signs of emotional or behavioural disturbance.
6. Medical findings suggestive of sexual abuse.
7. Characteristics associated with false allegations.

Within each of these areas it is possible to assess the evidence and weigh the probability that it is consistent with the child having been sexually abused. The more areas in which there are positive signs then the higher the probability that sexual abuse has occurred.

 **C Importance of First Allegations**

First allegations by a victim are particularly important and all contemporary records are invaluable.

 **D Analysis of Allegations**

The context of the first, and the evolution of any subsequent, allegations should be studied for features such as:

* spontaneity
* consistency
* suggestion
* coaching and rehearsal

 **E Facts Supporting Truth Telling**

The following factors are thought to increase the likely validity of children’s allegations:

1. Spontaneity ‑ Spontaneous allegations have higher validity than those resulting from suggestive or direct questions since children may be anxious to please and suggestible.
2. Where the interviewer tests alternative explanations for allegations or physical findings and such alternative explanations are rejected by the child.
3. Accounts which have a logical structure.
4. Internal consistency – e.g. the same theme is revealed through more than one medium e.g. drawings, play, speech etc.
5. Corroboration ‑ other children involved repeat the same story.
6. Amount/quality of detail ‑ detail which is specific to the alleged offence (e.g. recognisable and detailed descriptions of adult sexual behaviour) for which the child is unlikely to have any other source of information. Most allegations involve abuse by people known to the child, in places with which they are familiar – thus detailed descriptions of place and person may not be helpful in respect of validity. Validity increases with other details e.g. body positions and sensations compatible with the offence.
7. The child's description is consistent with his developmental level ‑ events are described from a child's perspective in a child's language, with its limitations and misunderstandings.

1. The child's emotional state is consistent with recollection of a distressing event ‑ emotional arousal during description of abuse, e.g. trembling, flushing, incontinence, topic related hyperactivity, avoidance, embarrassment, disgust, etc. Children making false allegations of sexual abuse are often bland and unemotional.

1. Victims of sexual assault may give an inconsistent account of their experiences. This inconsistency is of a specific type and may, paradoxically, be a feature which increases validity. Inconsistency which appears related to threats that have been made should the child disclose abuse, or fears of the consequences disclosure (e.g. imprisonment, family break-up), are quite commonly seen in true cases of abuse.

1. Consistency in the face of challenge ‑ the child maintains the story when the original allegation is challenged. Admissions of understandable failures of memory increase validity as do corrections of the interviewer’s misunderstandings.
2. Details characteristic of the offence - validity increases if the child describes forms of sexual abuse which follow patterns which are known to experts but not generally to the public. For example, the gradual sexualisation of normal intimacy of within family abuse

**F Circumstances Associated With An Increased Risk Of Child Sexual Abuse**

1. Child has contact with adults with a history of sexual offending.
2. Child has a parent who was a victim of child sexual abuse.
3. Households where there is evidence of high levels of sexual activity and interest and little attempt to protect children from this.
4. Households/carers with a history of cruelty or neglect of the alleged victim or other children.
5. Families where children are treated as precociously mature e.g. role reversal, excessive independence, low supervision, cultural beliefs normalising early sexuality, chaotic families

**G False Allegations of sexual abuse**

1. False allegations may be characterised by:
2. lack of emotion during disclosure;
3. lack of a sense of threat;
4. lack of detail;
5. stereo‑typed presentation - often in strict chronological order.
6. The child may have a motive for giving a false account.
7. Children making false allegations are suggestible and will alter their account to fit others’ suggestions or misinterpretations. Thus the account may develop over time, so that later allegations are inconsistent with the earlier allegations.
8. Children may make false allegations as a result of "coaching" or “suggestion” by adults who are in a position of influence over them. This may be deliberate but more commonly is inadvertent and occurs from a combination of:
9. suggestive questioning and a child who wishes to please his interviewer or care‑taker.
10. The greater the insecurity and dependency of the child the greater the need to please by giving the response which is being sought.
11. Younger children are more vulnerable because of their suggestibility and dependency.
12. The circumstances in which most children are subjected to suggestive questions are such that they may be under considerable emotional pressure e.g. during the course of a contact or when removed from home.
13. Children are more susceptible if tired and hungry, thus lengthy interviews and interviews taken without regard to the child's normal meal times and bedtimes are to be avoided or such circumstances noted when analysing strength of evidence.
14. **ABE INTERVIEW**

The ABE Guidance can be found at [www.cps.gov.uk](http://www.cps.gov.uk)

The Guidance addresses a range of police interview preparation issues, offering advice on basic questioning techniques and recommends the use of a four-phased approach for interviews.

**Brenda Robinson a child forensic specialist provided 2 excellent research articles in** [**www.familylawweek.co.uk**](http://www.familylawweek.co.uk)

**A. Recommended ABE Interview Structure**

 **i . Rapport**. Interviewer establishes rapport with the interviewee

 **ii. Free Narrative**. Acquire a free, uninterrupted narrative account from the

 interviewee

 iii. **Detail**. Questioning in detail, including clarification of any earlier allegations

 iv. **Closure**. Interview closure: including summing up of key evidence

Regretfully departures from this structure are common but may impact upon the quality of evidence obtained and how one should analyse an allegations made or information disclosed.

 **B. Key Points of Good ABE Practice**

* Provide a pre-interview explanation to the child
* Ensure police consultation with relevant social worker prior to interview
* The ABE has no specific guidance on interviewing children who allege sexual assault. Therefore planning and preparation must address this issue
* Forensic interviewing should be hypothesis-testing rather than hypothesis-confirming
* Elicit the child’s free narrative account about any alleged offences. This is accomplished using open questions. Non-specific prompts such as ‘did anything else happen?’, ‘is there more you can tell me?’ and ‘can you put it another way to help me understand better?’ are of most use. Verbs like ‘tell’ and ‘explain’ are also useful
* Where the child alleges that offences have happened at different times, the interviewer should encourage free narrative about one incident to establish clarity

 **C. Key ABE Errors**

* Using complex questions to question children
* Employing adult phraseology and language
* Prompting and leading questions, suggestion
* Interviewer making inappropriate responses to answers: negative and positive
* Double and treble questions in one statement
* Same formulaic approach followed irrespective of the child’s age, developmental level, or the circumstances of the particular case
* Interrupting the child with questions when he is telling his story
* Interviewer preoccupation with peripheral detail, rather than attention to the content of the alleged sexual assault, i.e. on ‘what happened.’
* Using ‘victim blame’ questions, which imply victim fault or responsibility
* ‘Defence’ questions are put to the child in an accusatory manner

**D. ABE Analysis**

Although not stated in ABE, certain features have been associated with truthful accounts:

* Descriptions of interactions;
* Reproduction of conversation;
* Unexpected complications;
* Unusual details;
* Superfluous details;
* Accurately reported details which are misunderstood by the child;
* Related external associations;
* Subjective mental states (feelings of disgust or fear), and attribution of the perpetrator’s mental state (description of emotions, cognitions and motivations)

**E. ABE: PREPARATION AND PLANNING**

 **i. A Gentle Warning**

It is suggested that the guidance contained in both the Memorandum and ABE is rather ‘catch all’ in nature. Professor Ray Bull (the author of the Memorandum) has been quite explicit in describing the guidance as being ‘on how to do the easy ones.’ Neither the Memorandum nor ABE contain any specific guidance on interviewing children who allege sexual assault, and who may be traumatised. On that basis what should be done in this circumstance?

**ii. Sexual Assault Investigations**

It is suggested that interviewing those that allege sexual assault requires:

* Specific preparation skills
* Specific questioning techniques and style

These requirements go far beyond the content of the current ABE guidance. Each of these matters is addressed in turn.

**iii. Preparation and Planning: Pre-Interview**

ABE states that ‘interviewers must also take steps to prepare the child for the interview itself.’ There are four different levels:

* The planning of wider issues;
* The interviewers’ preparation of strategies, questions and content;
* A general assessment of the child; and
* Preparing the child for the interview

This would appear to indicate the need for a planning and preparation period by the interviewers of several hours. Moreover, planning is explicitly stated as a necessary component of ABE interviews – ‘thorough planning is essential to a successful investigation and interview.’

Before the interview takes place, the ABE guidance requires interviewers to engage in multi-disciplinary planning; to consider a wide range of factors when preparing for the interview. For example to decide whether a psychological or psychiatric assessment of the child is required pre-interview, and consider how the content, structure and rules of the interview will be explained to the child.

**iv. Child Characteristics**

ABE requires the interviewers to meet and consider a number of factors prior to the interview with the child. These include a number of factors pertaining to the individual child, his or her family, and background, for example:

* The child’s age, race, culture;
* Use of language;
* His or her religion;
* Issues of gender and sexuality;
* Any special needs/the child’s cognitive, memory and linguistic abilities;
* His or her current emotional state and range of behaviours;
* Relationships with family members;
* The child’s sex education and sexual knowledge;
* Family routines;
* The use of discipline and the presence of any recent stress.

The ABE suggests that the following factors also be explored:

* The child’s preferred mode of address;
* His or her willingness to talk within a formal interview;
* An explanation of the reason for the interview;
* The ground rules;
* An opportunity to practice answering open questions;
* The child’s cognitive, social and emotional development;
* The child’s use of language and understanding of concepts such as time and age;
* Whether the child has any special requirements or mental health problem; and
* Whether the child is competent to give consent to the interview and any medical examination

**F. ABE: Recommended Questioning Techniques**

1. **Hypothesis-testing rather than hypothesis-confirming**

Open minded hypothesis generation (during interview preparation) can be a particularly useful means of exploring all of the possibilities for the allegations, for example that the child is lying; that he or she has been coached; that the allegation concerns another person rather than the one named, or that the child is speaking truthfully. One area which is often neglected is that of interviewers testing hypotheses that the child had been coached and/or was lying.

1. **Elicit the child’s free narrative account about any alleged offences**

Particular emphasis is placed on the importance of eliciting the child’s free narrative account about any alleged offences. ABE advises that interviewers should never stop a child who is freely recalling significant events.

1. **Open ended questioning**
Studies have found that open-ended questions elicit more accurate information than those which are specific and the child’s responses to open ended invitations to speak are longer and richer than responses to specific questions. Closed questions should be postponed for as long as possible, perhaps until the Closure phase of the interview.
2. **Interviewer can maintain neutrality by ‘disconnecting’ themselves from the question**

An example of this would be: ‘Do you know, some people might say that you have made this up. What would you say to them? This will avoid the appearance of ‘approving’ or ‘condemning’ statements made by the child which can work as suggestion, both positive and negative.

G. **Common ABE Questioning Errors Undermining Free Disclosure and the Quality and Reliability of Evidence**

1. Use of complex questions
2. Questions employing adult phraseology and language
3. Leading and prompting questions
4. Unclear questions
5. Repetitive and insistent questions
6. Aggressive questioning
7. Using the same formulaic routine irrespective of the child’s age, developmental level, or the circumstances of the particular case
8. Employing ‘victim blame’ questions, which implied fault or responsibility on the part of the alleged victim. E.g. ‘why did you go upstairs when you knew he was in your bedroom? why didn’t you tell anyone?’, and ‘why didn’t you try to stop him?’
9. Repeatedly asked the child to explain the alleged offender’s motivation, for example –‘so why do you think he did that?’

**H. Features Associated With Truth Telling In A Child ABE**

1. Although not stated in ABE, certain features have been associated with truthful accounts, for example:
2. Descriptions of interactions;
3. Reproduction of conversation;
4. Unusual details;
5. Superfluous details;
6. Accurately reported details which are misunderstood by the interviewer;
7. Related external associations;
8. Subjective mental states (feelings of disgust or fear), and attribution of the perpetrator’s mental state (description of emotions and motivations).
9. Some practitioners suggest that the more such factors are interwoven in the same sentence or paragraph, the more likely the child is telling the truth.
10. In judging the evidential strength of the child’s account however, surveys have found that the Police, the Crown Prosecution Service and the Courts are likely to make decisions based on the
* clarity in the evidence
* amount of detail provided
* consistency of the evidence
1. If reports come from a number of sources, particularly if some of the sources are unaware of the significance of the observations this is considered to be of notable evidential strength.

**I. Inconsistencies In The Child’s Account**

**i. Indication Value of Inconsistencies**

The presence of inconsistencies in the account (or between the accounts of siblings) may be an indication that the child is making a false allegation.

Equally, inconsistency may well be an indication of veracity. Inconsistency and lack of cogency does not necessarily equate with untruthfulness. As events become more routine, the memory representation becomes more schematic, focusing on what usually happens and often losing details of specific occurrences.

Thus, paradoxically, memories of chronic abuse may be less detailed than memories of a single, traumatic event.

**ii. Preparation to Address Inconsistencies**

The issue merits very careful attention in pre-interview preparation, particularly where previous abuse is known or suspected, or where there are suspicions that abuse may have occurred on different occasions over time. In the absence of such preparation, the interviewer’s conduct may contribute to a subsequent lack of clarity.

**iii. Avoidance of and Addressing of Inconsistencies**

When confronted with inconsistency the informed response necessitates asking the child to think carefully about ‘one time’, and to ‘tell me as much about it as you can from start to finish’.

Where the interviewer fails to clarify the child’s mention of ‘other times’, ‘that time’, ‘some times’, ‘lots of times’, inconsistencies in the account may well occur.

J. **Points of Consideration Relating to Young Children**

* Younger children (up to about 7 - 8 years old) are unlikely to understand the seriousness of the investigative process or the consequences of allegations they may make.
* Young children do not fully understand the concept of truthfulness and are not able to discriminate between the moral value of being honest in making serious allegations and making statements which please important adults.
* Young children’s “beliefs” are highly dependent upon what they are told by adults. Their evidence can be distorted by poor interview technique e.g. leading, direct and repeated questions. An evaluation of their evidence should be sensitive to whether such circumstances exist.
* Consequently these attributes should be considered when conducting any analysis of an ABE conducted by a young child.
1. **FACT FINDING**
2. **Is a fact finding hearing necessary?**

The **President's Guidance in Relation to Split Hearings [2010] 2 FCR 271** ("the Guidance") arose following a series of cases in which the Court of Appeal expressed growing concern at the delay and complications arising in cases in which split hearings were being held, arguably unnecessarily.

In **re W ( Children) [2009] EWCA Civ 644**

Wall LJ reminded practitioners and judges that:

"[A] rigorous approach has to be taken to finding of fact hearings. Any hearing must, of course, be fair, but the judge may need to make robust changes to schedules of findings prepared by local authorities, and local authorities in particular need to examine their practices carefully to ensure that a finding of fact hearing is strictly necessary for the proper and expeditious resolution of the proceedings."

[**Re L ( a child)**](http://www.familylawweek.co.uk/site.aspx?i=ed41051) **[2009] EWCA Civ 1008**

Such a suggestion may seem surprising to many practitioners, though the implication appears to be that lengthy and costly fact findings, even for serious injuries, may be unnecessary when all the parties recognise that the court in not going to be able to narrow the pool of perpetrators any further than already identified by the local authority

The **President’s Guidance** now provides as follows:

(i) The decision about whether to hold a split hearing rests with the judge, not with the parties or CAFCASS. Such hearings should not be ordered just because the parties agree that there is a need or because CAFCASS say they cannot report without one.

(ii) A fact finding hearing should only be ordered where the court "takes the view that the case cannot properly be decided without such a hearing."

(iii) Even if a fact finding hearing is necessary, consideration must be given as to whether this needs to be a split hearing or should form part of the substantive hearing. "In my judgment it will be a rare case in which a separate fact finding hearing is necessary."

(iv) In domestic violence cases this means that allegations of harm put forward as a reason to deny contact do not automatically require a fact finding hearing. Instead the court should rigorously apply the guidance in the **Practice Direction: Residence and Contact order: Domestic Violence and Harm [2009] 2 FLR 1400** in considering whether the outcome of any fact finding hearing would affect the decision of the court, and to what extent.

**The Norgrove Regulation** will place pressure on courts to return the old system of one hearing and no fact finding but experts assessing on a parallel basis on multiple possible outcome basis including worse case scenario

 **B. Do we have all material disclosure?**

**Re R (Care: Disclosure:Nature of Proceedings) (2002) 1 FLR 755 per Charles J**

All material disclosure must be provided as the earliest opportunity including police disclosure which should be sought as soon as possible at the outset

* Foster carers diaries
* School logs
* Pre ABE interview notes
* LAC medical notes
* Hospital and GP records
* Notes of experts discussing allegations with the children
* ABE interview – DVD of ABE and transcript ( agreeing the misrecordings)
* Other statements and interviews of parents
* Photos

**C Evidence of the children**

1. **Child giving evidence**

**Re W** deals with the current law on this issue and the key considerations. Guardian SW or expert can and should in certain cases provide short analysis of whether the child can understand and impact on him/her of giving evidence and the matter of whether and how the children should give evidence must be dealt with at an interim hearing

# W (Children) [2010] 1 FLR 1485 UKSC

* **ECHR:** The current presumption against a child giving live evidence in family proceedings, cannot be reconciled with the approach of the European Court of Human Rights.
* **No Child Precedence:** In care proceedings there must be a balance struck between the Article 6 requirement of fairness, which entails the opportunity to challenge evidence, and the Article 8 right to respect for private and family life of all the people directly and indirectly involved. No one right should have precedence over the other.
* **No Presumption Or Starting Point in Favour Of Child**: Striking the balance may well mean that a child should not be called to give evidence in a great majority of cases, but this is a result and **not a presumption nor even a starting point**.
* **Two Considerations:** When considering whether a particular child should be called as a witness in family proceedings, the court must weigh two considerations:
	1. The advantages that that will bring to the **determination of the truth**; and
	2. The **damage** it may do to the welfare of this or any other child.
* The court set out other factors to consider when conducting this **balancing exercise**:

	1. An **unwilling child** should rarely, if ever, be obliged to give evidence;
	2. The **risk of harm** to the child if he or she is called to give evidence remains an ever-present factor to which the court **must give great weight;**
	3. The **risk**, and therefore the weight, will vary from case to case, but it must **always be taken into account**; and
	4. At both stages of the test the court must also **factor in any steps** which can be taken to **improve the quality of the child’s evidence**, and at the same time decrease the risk of harm to the child.
* **Essential Test: whether justice can be done to all the parties without further questioning of the child**.
* **Weighing Factors**: In weighing the advantages that calling a child to give evidence might bring to the case, the court would look at several factors, including the:
1. Issues in the case;
2. Quality of other evidence;
3. Nature of the challenge to the child’s evidence (the court not helped by generalised accusations, whereas focused questions that put forward a different explanation for events might help the court to do justice);
4. Child’s age; and
5. Maturity and the length of time since the events in question
* **Management of issue:** The issue should be addressed at the case management conference in care proceedings, or the earliest directions hearing in private law proceedings, and should not be left to the party to raise.

1. **DVD or other evidence from the child**

The Court should be cautious about relying on child’s evidence when it has not been challenged through cross examination

**Use of reliability expert** if the Court finds it helpful

This is NOT a veracity expert – determination of veracity is the domaine of the Court – is an expert needed to assess the child’s -

 verbal and non verbal communication

 her memory

descriptive ability

suggestibility

1. **ASSESSMENT OF THOSE WHO SEXUALLY ABUSE**

**A. Purpose of a post findings assessment in sexual abuse cases**

1. Gaining greater insight into the abuse that took place and why it happened
2. Gathering information about the context of the abuse
3. Assessing the effect of any abuse on the child and family and what therapy, support and guidance may be needed to minimise the trauma and what awareness work needs to be done with the child and family
4. Gathering information to assist those working with the child, non abusing parent and the family.
5. Gathering information about the family dynamics and individual relationships.
6. Assessing the patterns of behaviour
7. Assessing risk – the extent and nature of the risk and to whom
8. Assessing ability to change
9. Identifying what intervention and/or treatment is required to reduce risk
10. Identifying strengths and weaknesses in the non abusing care giver ,their insight and ability to protect
11. Devising any programme of work needed to ensure adequate management by the non abusing care giver of any risk
12. Providing information to assist decision-making into what role the abusive parent should play in the future of the child and family (ie contact or viability of a primary carer role or family reconstruction in the context of having a non abusing care giver present)

**B.Types of Assessment**

* individual assessment of the abusing parent
* individual assessment of the abusing child/children
* dual assessment of abusing and non abusing parent
* integrated family assessment
* involving an individual or group component
* Residential assessment? (not available at present)

**C.Context of Assessment**

* Sexual abuse in the family
* Sexual abuse against an adult
* Sexual abuse against children
* Sexual took place outside home environment or against

 unconnected third parties

* Non contact sexual abuse – eg flashing
* Internet abuse
* Contact sexual abuse
* Sexual abuse which occurred long ago
* Single episode of sexual abuse
* Multiple episodes of sexual abuse (over a short focused

period or over time)

* Abuser who is a child
* Sexualised behaviour by children but no current abuser in

 the home

* Lack of sexual boundaries
* Distorted sexual attitudes
* Both parents involved in sexual abuse
* Inter generational sexual abuse

* Extended Family sexual abuse
* One parent involved in abuse
* Paedophile Ring
* Abuser wishing reintegration within the family
* Abuser already in a new family unit
* Abusing parent who wishes contact with child victim or with

child who is not victim

**D. The impact of Findings of Fact on the assessment process:**

**Re J and O (Family Division:HHJ Cahill sitting as a Deputy Judge of the High Court 20.07.07)**

Expert should rely completely on the findings of the court as the starting point of any assessment

It was not for the expert to decide whether the findings of a judge or assertions of a parent should be preferred.

The Fact Finding hearing should attempt to deal with any many of the allegations and issues in the history as possible in order to assist the assessment process. A comprehensive starting for assessment stage needed.

**E. Key components of Assessment**

* Direct Observation
* Psychometric Tests
* Interview
* Self Report Questionnaires
* Reports of others
* Documentary Analysis
* Psychological/psychiatric testing

**F.Assessment Models –**

What assessment model was used and was it properly applied?

Different Models include:

* Rapid Risk Assessment for Sex Offence Recidivism (RRASOR)
(Hanson 1997)
* The Structured Anchored Clinical Judgement (SACJ)
(Grubin 1998)
* Risk Matrix 2000
(Hanson & Thornton 2000)

Faller (1993) provides a useful guide of issues to be covered in an

assessment

* Past history of physical abuse neglect
* Past history of sexual abuse
* Current living situation
* Education and employment history
* Parenting
* Discipline
* Partner relationship
* Sexual history
* Substance abuse
* Mental illness
* Mental retardation
* Criminal history
* Sexual abuse
* Treatment History

**G.Ineffective interviews and reporting**

* Failure to assess the cycle of offending
* Failure to interview client in depth
* Accepting one fact or explanation without pursuing other possibilities
* Inaccurate paraphrasing
* Offering implicit therapy or premature hypothesis
* Using words/phrases client may not understand
* Not sticking with a line of enquiry
* Failure to consider application of Finkelhor Preconditions (1986)

 Finkelhor Preconditions (1986)

* The abuser must have a motivation to sexually offend
* The abuser must overcome internal inhibitions to offending
* The abuser must overcome external inhibitors to offending
* The abuser must overcome the child’s victim’s resistance

**H Questionnaires –**

**Re S (Care:Parenting Skills:Personality Tests) 2005 2 FLR 658**

**Re L (Children) (Care Proceedings Sig Harm) (2007) 1 FLR 1068**

dangers of placing undue reliance on personality testing especially to determine credibility - it should not be used to resolve key issues unless they are validated by other evidence

 Pros

* They can be part of structured interview
* Easier to write than to speak of sexual matters
* They can highlight inconsistencies more clearly
* Thinking time for client
* Important things do not get missed
* Can be very focused on area of enquiry

 Cons

* Too Mechanical
* Difficult for clients with literacy problems
* Can be viewed as a superficial paper exercise
* Easier to fake good
* Open to ambiguity

**I. Quality of Assessment**

Has the assessment dealt properly with the following key areas:

* Proper focus on Index Offence(s) key facts re abuse
* Sexual knowledge and attitudes
* Distorted Thinking
* Sexual Arousal and Sexual Fantasy
* Victim Empathy
* Self Esteem
* Relationships and Intimacy
* Alcohol and Drug Use
* Abuser’s Own Victimisation

**J Evaluating the Assessor –**

**Loveday v Renton and another(1990) 1MedLR 117 at 125 per LJ Stuart Smith**

* In determining the quality of expert assessor’s evidence a number of processes have to be undertaken:
* The mere expression of opinion or belief by a witness however eminent does not suffice
* The court has to evaluate the witness and the soundness of his opinion
* Most importantly it involves the examination of the soundness of the reasons given for his opinion by examining the internal consistency and logic of his evidence
* His precision and accuracy of thought as demonstrated by his answers
* How he responds to searching and informed cross examination
* The extent to which a witness faces up to and accepts the logic of a proposition put in cross examination or is prepared to concede points which are seen to be correct
* The extent to which a witness has conceived an opinion and is reluctant to re-examine it in the light of later evidence or demonstrates a flexibility of mind which may involve changing or modifying opinions previously held
* Whether or not a witness is biased or lacks independence
* Witness’s demeanour

**K. Importance of Disclosure to enable effective examination of**

**Assessor**

 **Re R (Care:Disclosure:Nature of Proceedings) (2002) 1 FLR 755 per Charles J 772G-779F**

 **Re L (Care:Assessment:Fair Trial) (2002) 1 FLR 755 per Munby J p 771**

 **para 154**

* Full and frank disclosure of key documents at any early stage of to include file notes, contact recordings notes of meetings and telephone attendances
* All professionals involved should at all times keep clear, accurate full and balanced notes of all relevant contact and discussions and meetings
* Any objection should be determined at the earliest possible date
* Social Workers and Guardians should routinely exhibit to their reports and statements notes of relevant meetings, conversations and incidents
* When it is proposed the Social Workers and Guardian should meet with the expert:
1. There should be a written agenda circulated in advance to all concerned
2. Clear written notice given to parents and representatives with a copy of agenda and documents intended to be raised with the expert and notice of all criticisms of a parenting or non attending party which it is intended to raise with the expert
3. The parent or non attending party should have a clear opportunity to make representations to the expert prior to and/or at the meeting on the documents issues and/or criticisms of which he has been given
4. The parent and/or other party should have the right to attend and/or be represented at the professionals meeting
5. Clear, accurate, full and balanced minutes of the professionals meeting should be taken by a nominated person
6. Minutes should be agreed and circulated ASAP to all parties
* Categories of relevant disclosure documents include:
* assessment plan
* notes of assessment
* questionnaires
* feedback session – Parents right to reply
* professional review meetings (internal and external)
* articles and research papers relied upon

**L Contact between victim child and perpetrator parent**

This can serve a number of important purposes

 Vera Fahlberg (1991) – Minimising the Trauma

* Prevent denial/avoidance
* Resurface emotions about separation at manageable levels
* Provide opportunity for support of feelings
* Provide opportunity to review reasons for separation
* Decrease magical thinking
* Decrease loyalty issues
* Enhance identity formation

**M. Treatment and Funding issues within proceedings**

–limitations of s.38(6) and LSC position

**N. Useful publications and articles**

* Impact of sexual abuse on children Kendall Tackett et al (1993 Psychological Bulletin Vol 113 1641-180
* Briggs Doyle Gooch and Kennington ‘Assessing Men who Sexually Abuse’ (1998) a Practice Guide –Jessica Kingsley Publishers
* Finkelhor et al A Source Book on Child Sexual Abuse (1986) California Sage
* Faller KC (1993) Child Sexual Abuse;Interaction and Treatment Issues Washington:US Department of Health and Human Services
* Ryan Lane Davis and Isaac Child Abuse and Neglect volume 2

Juvenile Sex Offenders Development and Correction pp385-395

* Morrison and Print (1995) (Adolsecent Sexual Abusers:An Overview.Hull:NOTA
* Hilderbran and Pithers (1989) ‘Enhancing offender empathy for sexual abuse victims’.In D.R.Laws (ed) Relapse Prevention with Sex Offenders New York The Guilford Press
* Knight Prentky and Cerce (1994) ‘The Development reliability and validity of an inventory for the multidimensional assessment of sex and aggression’ Criminal Justice and behaviour 21,72-94
* Lanyon (1991) ‘Theories of sex offending’ In CR Hollin and Howells.Clinical Approaches to Sex
* Marshall and Weave Offender and their Victims (1991) Targets for Change.Nottingham:Nottinghamshire Probation Service
* Fisher HS (1994) ‘Adult sex offenders:who are they?How and why do they do it?' In T Morrison M Erooga and RC Beckett Sexual Offending Against Children London Routledge
* Campbell JC (Ed) (1995) Assessing Dangerousness:Violence by Sexual Offenders,Batterers and Child Abusers.London.Sage
* Deitz (1992) ‘Measurement of Empathy towards rape victims and rapists’Journal of Personality and Social Psychology 43 ,372-384
* Groth AN (1979) Men who rape The psychology of the offender New York Plenum
* Willis GC (1993) Unspeakable Crimes London The Children Society
* Sinclair L (1991) ‘Assessment: a comprehensive task.Assessing risk;effective interviewing’Presentation to ROTA Conference Liverpool
* Smith G (1994) Parent Partner Protector:conflicting role demands for mothers of sexually abused children’ In T Morrison M Erooga and RC Beckett Sexual Offending Against Children London Routledge
* Webster CD and Eaves D (1995) The HCR-20 Scheme:The Assessment of Dangerousness and Risk:Version 1 January 1995 Monograph from Simon Fraser University and Forensic Psychiatric Services Commission of British Columbia
* Fahlberg V. A Child’s Journey Through Placement (1991) BAAF
* Fisher, D., & Thornton, D. (1993). Assessing risk of re-offending in sex offenders. Journal of Mental Health*,* Volume 2, Pages 105-117.
* Hanson, R.K., & Bussiere, M.T. (1998) Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism. Journal of Consulting and Clinical Psychology, Volume 66, Issue 2, Pages 348-362.
* Harris, A., & Rice, M. (2003). Actuarial Assessment of Risk among Sex Offenders. Annual New York Academy of Science; 989: 198-210.

**CYRUS LARIZADEH**

**4 PB**

**7th October 2013**

**ABE TRANSCRIPT EXTRACT**

Police: What did I speak to you about? [*on a previous occasion*]

**Max: Daddy.**

Police: Daddy, okay. And what did I ask you about daddy? Can you remember?

**Max: Blood.**

Police: Blood, yes. You’ve got a very good memory. And what did you tell me? What happened?

**Max: Erm, once I had a needle and…**

Police: And what?

**Max: I can’t remember.**

Police: You can’t remember. Okay, so let’s go back on that one. So once, just one time, you are saying, you had a needle. Where did you have a needle?

**Max: A long time ago. I saw Simon at the park.**

Police: Oh right.

**Max: My friend.**

Police: Okay.

**Max: But he’s not my friend now.**

Police: Why?

**Max: Because he doesn’t like me now.**

Police: So, you’re saying one time…

**Max: Yeah.**

Police: Daddy.

**Max: Yeah.**

Police: Injection.

**Max: Yeah.**

Police: Yeah? Okay. Tell me about that time.

**Max: Erm, it was a long, long, long, long, long, long long, long, long time ago.**

Police: A long time ago. How old are you?
 **Max: What?**

Police: How old were you when this happened?

**Max: Three.**

Police: Okay, so you were three.

**Max: No, four actually.**

Police: Three or four.

**Max: Four.**

Police: You’re four now. When’s your birthday?

**Max: March. No.**

Police: No, your brother’s birthday is in March.

**Max: August.**

Police: August.

**Max: I just got confused.**

Police: So, you were three or four and your daddy gave you an injection. Where was this?

**Max: Erm, when we was about to go home?**

Police: Okay. So, where were you before you went home?

**Max: At the park.**

Police: So, this happened at the park?

**Max: Mmm.**

Police: Gave you an injection.

**Max: Mmm.**

Police: At the park.

**Max: Mmm.**

Police: What park?

**Max: No, actually, it was at…mummy and daddy and daddy stated at home. No, mummy stayed at home.**

Police: I’m writing stuff down.

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Police: So there’s all these people in the park?

**Max: Mmm.**

Police: But your daddy stayed at home?

**Max: No. Mummy.**

Police: Mummy stated at home and you were with daddy.

**Max: Mmm and Sarah and Joanne was and Jane was.**

Police: Okay.

**Max: And John was and me and John saw Paul to there.**

Police: Yeah. So, when did you have your injection?

**Max: Erm, when mummy, erm, went back home.**

Police: So, you went back home.

**Max: Mmm.**

Police: Yeah? And is that when you had your injection?

**Max: Yeah.**

Police: How did that happen then? Who did it?

**Max: Erm, it just happened when I was touching a fence.**

Police: It just happened when you were touching a fence?

**Max: Yeah.**

Police: So, you’ve ben to the park and you went home, yeah? What time did you have your injection?

**Max: Erm, I can’t remember.**

Police: Where were you when it…when you actually had it, where were you?

**Max: Look.**

Police: Look what I can’t see because you’re sitting on the floor. Oh, you’ve got a bruise on your leg. How did you get that?

**Max: I can’t remember. It was a long, long, long, long, long, long long, long, long, long time ago.**

Police: Was it?

**Max: Yeah.**

Police: Okay. So, when you had your one injection, yeah, with your daddy?

**Max: I’ve got big squares.**

Police: Where were you when that happened?

**Max: Erm, nearly home.**

Police: Nearly home

**Max: Yeah.**

Police: Okay, so you weren’t at home?

**Max: No.**

Police: So, daddy gave you an injection when you weren’t at home.

**Max: No, he gave me it when I was at home.**

Police: Oh you got home. Right, okay.

**Max: Yeah, he was at home.**

Police: Was there anybody else at home?

**Max: No, only me and m…daddy.**

Police: You and daddy.

**Max: Mmm.**

Police: Okay. And what did he do...how did he inject you?

**Max: Erm, he just cut through here. No, through here.**

Police: Hold your hand up because we can’t see you on the camera.

**Max: He cut through here then it didn’t hurt and he got it out, then he**

Police: Got what out?

**Max: What?**

Police: Got what out?

**Max: Erm, the thing.**

Police: The thing. What thing?

**Max: The needle.**

Police: The needle, yeah, go on.

**Max: Then he put a new skin on it.**

Police: New skin.

**Max: To make it better.**

Police: And there was nobody else in the house and it was just you and daddy and it was when you were three or four.

**Max: Four.**

Police: Four, okay. So, definitely four and you’re showing me that finger. Show me that finger again. That one. Was it definitely that finger? So, it was that finger on your left hand, yeah, and then you say he cut it. What did he cut it with?

**Max: He cut it with scissors.**

Police: Scissors, okay. So, he cut your finger with scissors and then he put the injection in there.

**Max: Mmmm.**

Police: And then what did he do. What happened then?

**Max: He put a new skin on it.**

Police: New skin, yeah.

**Max: Then he, then it was all better.**

Police: All better?

**Max: Mmm. That’s all.**

Police: That’s all?

**Max: Yeah.**

Police: What did he do with the blood he took out?

**Max: Erm, he put it in a bowl, then tipped it in the sink, then he…that was all.**

Police: That was all, yeah?

**Max: And once John whacked him with one of Joanne’s poles.**

Police: You told me that before, yes.

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Police: Are you saying that daddy injected you only once?

**Max: Yeah.**

Police: Are you sure?

**Max: Yeah.**

Police: Just the once?

**Max: Yes.**

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[*Previous interview by different police*]

Police: When you spoke to X.

**Max: Yeah.**

Police: You told him about injections . Can you remember what you told him?

**Max: Erm, no.**

Police: What do you know about injections?

**Max: Er…**

Police: Have you had one?

**Max: Er,no**.

Police: You haven’t had an injection?

**Max: No. Where’s my sticker?**

1. [↑](#footnote-ref-1)