Barnardo’s Northern Ireland Response to Consultation on Best Practice Guidance for Practitioners: Achieving Best Evidence in Criminal Proceedings.

Introduction

Barnardo’s is the largest children’s voluntary organisation in Northern Ireland. We provide over fifty services across NI every year to thousands of children and their families. Our work ranges from early years, to school age to young people and we provide child protection, family support, educational support and a specific range of services that seek to address disadvantage.

In formulating this response we consulted with our Safe Choices service which works with children and young people who are at risk of sexual exploitation through going missing from the care system. Whilst many of the professionals working with these individual young people may strongly suspect that they are being sexually exploited, few of the young people will ever make a disclosure or statement to this effect. Their reluctance to do so may be for various reasons including being fearful of what might happen to them should they disclose, misplaced loyalty towards those abusing and exploiting them or failure to view this as abuse given their often traumatic early childhood experiences.

We welcome the introduction of the Practitioner Consultation on the Best Practice Guidance and the recognition it affords to the complex needs of child/youth victims and witnesses. Whilst we will refrain from offering detailed comment on the step-by-step implementation of the policies and procedures, we would like to take this opportunity to highlight a few areas of particular relevance to the experiences of children and young people who have been sexually exploited.

The Challenges of Responding to Cases of Sexual Exploitation

Whilst all sexual offence cases present complex challenges for those working with victims and witnesses, cases where young people have been sexually exploited present additional difficulties and challenges. Many of these young people will be viewed, at best, as reluctant witnesses. Many will struggle to see that what has happened them is an offence, given the grooming techniques frequently employed by the perpetrators. Our experience would show that it is often only a number of months or years down the line, once they are extricated from the abusive situation, that a young person can see the abusive intent behind their experiences.
As recognised in section 4.190 of the guidance, victims of sexual offences are particularly vulnerable to intimidation - we would argue that this vulnerability is heightened when the victim is a child or young person, and doubly heightened when they do not have strong family support structures in place, as is the case for many children in care who might be sexually exploited. We have worked with many cases were the young people experience a real and tangible fear as to what might happen to them if they report the abuse - this fear can be based on explicit or implicit threats.

The importance of recognising the complexity of such situations is highlighted in the findings of a recent Derby Safeguarding Serious Case Review released in November 2011, which notes the “combination of factors [that] resulted in neither YP1 nor YP2 being able to talk about what was happening to them. These included…the fact that they did not initially see themselves as victims of abuse, and the power of the abusers to silence their victims; together with a general lack of understanding on the part of agencies of the signs and symptoms of sexual exploitation…and the assumption that they were going ‘willingly’ with their abusers”\(^1\)

**Training**

We welcome the recognition given to the importance of specialist training and ongoing quality assurance in the conduct of interviews and the need for this training to be cross-agency and regularly reviewed. We also welcome the recommendation for developing specialist training in relation to interviewing victims with particular needs, and would recommend that this incorporate training on the challenges of interviewing reluctant or even defiant victims/witnesses, with specific reference to the challenges of working with those who have been groomed.

**Prosecutorial Advice**

Given the well documented difficulties of progressing sexual offence cases through to conviction, we would welcome the practice of preliminary discussions between the Police and PPS, as outlined in section 2.10 of the guidance.

**Timeframes**

In relation to the timing of ABE interviews in the cases of child sexual exploitation, taking cognisance of the reluctance of victims to come forward is crucial. Some of these young people, at some point, may go through a period of turmoil, deciding if they should

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\(^1\) Derby Safeguarding Children Board (2010) Serious Case Review BD09 Executive Summary (www.derbyscb.org.uk/docs/BD09SCRExecutiveSummary.pdf)
disclose abuse. During this crucial period the professionals working closely with them may persuade them to make a statement. If the young person decides to proceed with this it is crucial that this ‘window of opportunity’ is taken immediately. Experience has shown us that when this has not happened, because of fear of their abusers and/or mistrust of authorities, this opportunity can often be lost.

Our experience has also been that there can be significant delays in correspondence between police and a young victim of sexual exploitation. In any of the situations of which we have been aware this has resulted in the young person not proceeding with the complaint, after the initial statement is made. One reason for this is that the young person is often still subject to the exploitation by the same people and therefore still feels vulnerable during this lengthy period during which they are not aware of what is happening to the case.

**Tailoring Interviews to the Needs of the Child**

We welcome the fact that a number of different considerations will be taken into account before proceeding with any video interview with a child, including the willingness and ability of the child to talk in a formal interview setting. Some young people who have been abused and exploited from a young age have not learnt the skills to enable them to converse at a level expected for a formal interview. Equally, others who have been abused through use of technology may be further traumatised by use of video technology.

We welcome the option for victims to write down things at certain points of the interview where they feel unable to verbalise their experiences. However, this option should be made clear to victims, especially where victims have the fear of reprisal from their abusers.

We would also welcome the intention to involve young people and/or their supporters in the planning of interviews, as outlined in section 2.32 and 2.105 of the guidance, but would highlight the importance of honouring any commitments made to a young person as part of this process and the need to ensure no unnecessary delay.

We are pleased to see that cognisance is taken of the fact that there can be a number of reasons for significant evidential inconsistencies between what a child says during an interview and other material gathered during the course of an investigation (2.53). Bentovim's traumatic response model would suggest that dissociation or limited or deleted memory can be one result of trauma in an individual's life, a feature in the lives of many service users of Safe Choices. This can result in them being very poor witnesses for the police.
**Therapeutic Support for Victims**

We welcome the attention given to the issue of therapeutic support for child witnesses and whilst recognising the challenges in providing this within the context of an ongoing case, would emphasize the importance of ensuring the welfare of the child at all times.

**Conclusion**

As stated previously, we welcome the introduction of this Best Practice Guidance and the opportunity to highlight the needs of children and young people who are sexually exploited in relation to the issues under consideration. We look forward to seeing the needs of this population better addressed as implementation of this guidance is progressed.

30th November 2010