



# A Therapist's Guide

Practice principles from  
the CPS 'Pre-Trial Therapy'  
Guidance 2022

The well-being of victims should  
determine decision making with  
regards to pre-trial therapy



## About the Bluestar Project

This guide forms part of a suite of best practice resources developed by Emma Harewood of [Harewood Consultancy](#), on behalf of the Bluestar Project. The Bluestar Project (2021–2022) at the [Green House](#) was designed to understand the barriers and facilitators in accessing pre-trial therapy services among children and young people who have experienced sexual abuse.

The subsequent training and resources have been designed to apply to any practitioner or service working pre-trial with any victims/survivors of any form of abuse/crime.

## Contact the Bluestar Project

All resources and information about our Training and Accreditation Programme can be found at [www.bluestarproject.co.uk](http://www.bluestarproject.co.uk)  
Contact the Team on: [bluestarproject@the-green-house.org.uk](mailto:bluestarproject@the-green-house.org.uk)

## About this guide

When providing victims of sexual violence with therapy before a criminal trial, therapists should follow a set of principles. New [Pre-Trial Therapy](#) guidelines were published by the CPS in 2022, which apply to both adults and children/young people.

Although the CPS guidance was designed for therapy services, the information in this guide applies to services providing therapy, health and advocacy services for children and adults after experiencing sexual abuse. However, pre-trial therapy guidelines apply to all crime types where support services have been accessed prior to a case reaching court. The best practice guidance in this set of resources is also transferable to other service providers supporting victims of other crime types e.g., domestic abuse services.

These guidelines were produced after consultation with experts and voluntary sector providers, and are aligned with the principles in the [Attorney General's Guidelines on Disclosure 2022](#).

This short guide aims to provide a summary of the CPS draft pre-trial therapy guidelines for therapists supporting children, young people and adult victims of sexual violence. This will help therapists interpret the new principles of the draft guidance to advise victims of sexual violence about access to therapy while the criminal case is ongoing. This resource summarises guidance surrounding:

- [1. Key messages of the new policy](#)
- [2. The role of the therapist](#)
- [3. Which therapies can be accessed](#)
- [4. Handling new disclosures](#)
- [5. Principles for note-taking](#)
- [6. Handling note requests](#)
- [7. Preparing for court](#)

## **Definitions**

### **Pre-trial therapy**

Pre-trial therapy is a term used to define any type of therapy that is accessed while a criminal case is undergoing investigation by the police, awaiting charge by the Crown Prosecution Service (CPS) or awaiting a court date.

### **Victim**

In this document, 'victim' is used for consistency (rather than 'complainant', 'survivor' or 'witness') and refers to adults, young people and children who have made an allegation that a crime has been committed against them. The term victim is used in this guide only when directly referring to or quoting the CPS guidelines.

### **Therapists**

Therapists include all professionally trained practitioners and those undergoing training who are providing therapy to victims.

### **Therapy**

Therapy includes the range of psychological and emotional counselling and therapeutic approaches and support provided for difficulties that are associated with and/or exacerbated by a criminal offence.

## **Acknowledgements**

Many thanks to Emma Harewood of Harewood Consultancy who drafted this guidance in response to the Bluestar project research findings and in partnership with our Best Practice Advisory Group. The project was made possible by Home Office funding from the Childhood Sexual Abuse Support Services Transformation Fund.

# 1. Key messages from the CPS pre-trial therapy guidelines

Therapists and victims are encouraged to jointly agree on what therapy is best and when the right time for such therapy is. Neither the police nor Crown Prosecution Service (CPS) may decide this.

Therapy should not be delayed for any reason connected with a criminal investigation or prosecution if a victim decides it would be helpful for them.

The CPS guidance explores the benefits of therapy for victims engaging in the criminal justice process.

Only in exceptional circumstances can a court order the release of notes against the wishes of the victims.

The therapist will not ask the victim to recall the detail of facts included in the Victims Statement to the Police. However, if a victim wants to talk about their abuse, they should not be stopped. The therapist should remind the victim that in these cases, any new information about the allegation under investigation or new disclosures may need to be recorded and shared.

Certain therapeutic approaches may present challenges for the criminal justice process and victims should be informed of this.

Therapists, investigators and prosecutors must comply with data protection legislation when processing therapy notes

Therapy notes can be requested by the police or prosecution if they form part of a reasonable line of enquiry with justification given and with the consent of the victim or victims parent/carer.

## 2. The role of the therapist

Therapists have a unique relationship with service users, and, in the often-stressful pre-trial period, they can provide reassurance by explaining the impact of the criminal justice processes on therapy and confidentiality. The role of the therapist is to:

- Discuss suitable therapeutic options with victims and agree together the type of therapy and when to start

- Advise on the suitability of some therapies, including recovered memory therapy and hypnotherapy, and why this choice may have implications for the investigation and prosecution

- Advise the service user that therapy notes can be requested if the CPS or court thinks they form part of a reasonable line of enquiry. Only with the service user's consent can the notes be shared with police, prosecution, and defence team

- Support the service user if police and prosecution service ask to see sessional notes.

### 3. Which therapy should be used?

Trauma-focused psychological therapy may enable the processing of traumatic events and reduce the chance of dissociation or detachment in court or feelings of self-blame. This may also enable additional memories of the incident to be recalled as well as order fragmented and disorganised memories into coherent recall. For children and young people, the central purpose of the therapy is to help them make sense of what has happened.

Evidence suggests that trauma-informed cognitive and behavioural therapies work well alongside creative therapies (e.g., art, drama, music) (Gillies et al., 2016; MacDonald et al., 2012). The table

below outlines the types of therapy that are commonly used after the trauma of sexual abuse. The CPS Pre-Trial Therapy Guidance does not comment of types of therapies for adults and children, but does identify certain therapy types that may present challenges for the criminal justice process.

**The new Guidelines are clear that certain therapies may present challenges to the criminal justice process, however if service users want to access these therapies they should not be stopped as their wellbeing must take precedent, but they do need to be informed of the risks.**

Beneficial therapies	Child-focused therapies	Present challenges for CJS
Narrative Exposure therapy (NET)	Psychoeducation including safety, sexual health and relationships	Recovered memory therapy, which involves victims identifying memories of childhood abuse that they had no prior recollection of
Prolonged Exposure (PE)	Relaxation and grounding techniques	Explain to victims that techniques associated with an increased risk of false memories, including guided imagery, dream interpretation, and hypnotic age regression – can be viewed by some legal professionals as leading to false memories
Trauma-Focused Cognitive Behaviour Therapy (TF-CBT)	Recognition and expression of their feelings	
Sensorimotor and Body-Oriented Therapies	Empowerment	Deliberate attempts to recover forgotten memories
Eye Movement Desensitisation and Reprocessing (EMDR)	The psychological consequences of abuse such as guilt, shame and difficulty trusting others	
Group therapy – taking care to avoid sharing case information	Assertiveness and communication skills	Leading questions, suggesting to a victim what may have happened
	Trauma-focused therapy to process traumatic memories	
	Wishes, hopes and fears for the future	
	Group therapy – taking care to avoid sharing case information	

## 4. What if a victim discloses new or additional information during therapy?

Therapy can help descriptions of incidents come to mind and be shared that were previously blocked by shame or self-blame. If new incidents are shared with the therapist, the therapist is a 'First Disclosure Witness' and could be asked to give a witness statement for the criminal proceedings. It is important to keep detailed notes of the disclosure as the notes could be valuable evidence for the victim in the criminal justice process<sup>1</sup>.

### **The duty to pro-actively seek information around new or additional disclosures sits with the police.**

In all cases where new or additional disclosures are made, it is considered best practice for therapy services to encourage victims to speak with the OIC (if known) to remind them that therapy / counselling is ongoing and that a disclosure has been shared. Therapists are not required by the police or CPS to seek out the OIC after a new or additional disclosure is made.

If a notes request has already been received and this disclosure falls within scope of the request, the therapist should inform the officer in the case (OIC) as soon as possible.

Adult victims should be encouraged to report new disclosures to the police via 111. Therapists have a duty to report any new or additional disclosures made by a child directly to social care and the OIC

There is no need to pause therapy for a police statement to be taken if a victim makes a new or additional disclosure or a police investigation commences. This applies if the disclosure is either before therapy has commenced or during therapy.

<sup>1</sup> Please see the 'Simple Note-Keeping Guidance' published alongside this document for more information about note-taking.

## 5. How do I take notes?

Case notes should be concise, clear and in line with GDPR, professional guidance and local note-keeping guidance. They rarely need to be verbatim unless recording a disclosure. Case notes can include date/time/location; who was present; theme of session and details

of any particular modalities such as sand tray or craft; analysis/formulation and next steps. Further information is available in the '[Simple Note Keeping Guidance](#)' published alongside this document.

## 6. Notes requests

The police or CPS should only request notes if they form a reasonable line of enquiry and there is some reason to believe that the notes will contain material relevant to the case. When receiving a notes request from the OIC or prosecution, therapists should expect:

- | an overview of the victim's allegations
- | issues in the case the OIC is seeking to evidence from the notes
- | an invitation to raise with the OIC any notes that may be sensitive if used as evidence or disclosed to the defence

Therapists should undertake a series of checks before releasing notes, including:

- | confirming consent from the victim to share
- | checking that there is a good reason for the request from the police or CPS
- | the redaction of any notes which contain third-party information or are not case notes (e.g., emails, supervision notes).

Your organisation's Information Governance lead can provide advice as needed. It is best practice to offer a session to the victim to read the notes before they are sent to the police/CPS. Always ensure notes are transferred via secure email.

The police submit notes as evidence for the case to the CPS for a charging decision, and unused materials are kept by the police. If the CPS makes a charge against the defendant, then they will also review the unused materials to see if they meet the disclosure test—i.e., notes that could impact the defence's case. At the time of the trial, the defence can also request a review of the unused materials not previously shared with them by the CPS.

For more information see the Bluestar Project guide to Responding to Notes Requests.

## 7. Preparing for court

Only 1.6% of rape cases result in someone being charged and fewer reach trial at Crown Court in England and Wales (Home Office, 2021), so the likelihood of a therapist being called to court is small. However, if a victim is called to court, it can be helpful to remind them of the therapy notes that they consented to share with the prosecution and defence, as these may be presented as evidence in court.

If the therapist is the first disclosure witness, they may be called to court and cannot speak to other witnesses, including the victim, until after the trial. Seeking support from other therapists or police officers who have appeared in court can help a therapist prepare for court. If the therapist is called as a professional witness, the purpose will be to present factual evidence of how the victim appeared in therapy sessions.



## Further Information

Pre-Trial Therapy Guidance, 2022. <https://www.cps.gov.uk/legal-guidance/pre-trial-therapy>

Attorney General's Guidelines of Disclosure, 2022. <https://www.gov.uk/government/publications/attorney-generals-guidelines-on-disclosure>

## References

Gillies, D., Maiocchi, L., Bhandari, A.P., Taylor, F., Gray, C. & O'Brien, L. (2016). Psychological therapies for children and adolescents exposed to trauma. Cochrane Database of Systematic Reviews, 10(10) doi: 10.1002/14651858.CD012371

Home Office (2021). Crime Outcomes in England and Wales: Year to December 2020. <https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-year-to-december-2020-data-tables>

Macdonald, G., et al. (2012). Cognitive-behavioural interventions for children who have been sexually abused. Cochrane Database of Systematic Reviews, 16(5). doi: 10.1002/14651858.CD001930.pub3

