



An Independent Sexual Violence Advisors (ISVA) 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
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About this guide

When providing victims of sexual violence with therapy before a criminal trial, there are a set of principles to follow.

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 Independent Sexual Violence Advisors (ISVA). It will help ISVAs interpret the new principles of the draft guidance and advise victims of sexual violence about access to therapy while the criminal case is ongoing.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 ISVA](#)
- [3. Which therapies can be accessed](#)
- [4. Handling new disclosures](#)
- [5. Principles for notetaking](#)
- [6. Requests for notes](#)
- [7. Preparing for court](#)

Definitions

Pre-trial therapy

Any type of therapy that is accessed while a criminal case is undergoing investigation by the police, awaiting a CPS charging decision, or awaiting a court date.

Victim

In this document, "victim" is used for consistency (rather than "complainant", "survivor", or "witness") and refers to an adult, young person or child who has 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

All professionally trained practitioners and those undergoing training who are providing therapy to victims.

Therapy

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

Victims and therapists are encouraged to jointly agree on what therapy is best and the right time for that therapy. It is not for the police or the CPS to decide. ISVAs can advocate for victims to ensure their voice is heard in the decision-making process.

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.

Certain therapeutic approaches present challenges due to the impact they may have on criminal proceedings.

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

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

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

2. The role of the ISVA

ISVAs have a role in enabling victims to access therapy pre-trial, understanding the implications if the victim's notes are requested as evidence, and supporting the victim in the consent process. Key roles include:

- Providing impartial information to victims about all their options for accessing support services, including pre-trial therapy services
- Facilitating access to therapeutic counselling and mental health services
- Supporting victims to engage with the criminal justice process, for example, supporting the victim to make a report to the police should they wish to, attending pre-trial court visits, requesting special measures, and understanding the victim impact statement

- Providing independent advice and guidance on victims' rights in the Victims Code and Witness Charter

- Advising the victim that ISVA notes can be requested if they form part of a reasonable line of enquiry. Only with the victim's consent can the notes be shared with the police, prosecution service, and the defence team; and

- Supporting the victim if the police and the prosecution service seek consent from the victim to access their notes.

Further details about the ISVA role can be found in 'Home Guidance: Role of the ISVA' (Home Office, 2017). Further guidance about how ISVAs should expect the police and the CPS to work with them can be found in the 'National Framework for Working with ISVAs' (CPS, 2021).

3. Which therapy can be accessed?

The Pre-Trial Therapy Guidance does not comment of types of therapies for adults and children, but does identify certain therapy types that are not recommended. The table below includes therapy types that ISVA's may see commonly used after the trauma of sexual abuse.

The ISVA should be aware of the type of therapy that a victim is accessing and, if necessary, advise the therapist and the victim of the potential impact on the case by accessing any therapy 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	
Trauma-focused Cognitive Behavioural Therapy (TF-CBT)	Recognition and expression of their feelings	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
Sensorimotor and Body-Oriented Therapies	Empowerment	
Eye Movement Desensitisation and Reprocessing (EMDR)	The psychological consequences of abuse, such as guilt, shame, and difficulty trusting others	Deliberate attempts to recover forgotten memories
Group therapy – taking care to avoid sharing case information	Assertiveness and communication skills	
	Trauma-focused therapy to process traumatic memories	Leading questions, suggesting to a victim what may have happened
	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 to an ISVA or therapist?

Therapy can help to enable descriptions of sexual violence incidents to come to mind. These new disclosures could be shared in sessions with an ISVA or therapist. It is important to let the victim know that if they make a new or additional disclosure, the ISVA or therapist will need to keep detailed notes, as the notes could be valuable evidence for the victim in the criminal justice process¹.

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 and ISVA 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 and ISVAs 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 and ISVA 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. ISVAs and therapists have a duty to report any new or additional disclosure made by a child directly to social care and the OIC.

If the victim reports a new or additional disclosure, there is no need to ask them to pause therapy for a police statement to be taken. This applies if the disclosure is reported before or during therapy/support.

It is important to know that under Home Office (2017) guidance, if a victim makes a new disclosure to an ISVA, this ISVA will be aware of potentially disclosable information. The ISVA should, therefore, stop all work with the victim so that the defence team cannot challenge the ISVA's role as coaching a witness. In these circumstances, alternative support arrangements must be made to ensure the victim has access to a different ISVA within the service.

¹ Please see the '[Simple Note Keeping Guidance](#)' published alongside this document for more information about note taking.

5. How do I take notes?

ISVA 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; topics

discussed; support offered, including onward referrals; analysis; and next steps. Further information is available in the '[Simple Note Keeping Guidance](#)' published alongside this document.

6. Requests for notes

The police or the 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 request for notes from the OIC or the prosecution service, ISVAs should expect:

- | An overview of the victim's allegations
- | Issues in the case where the OIC is seeking to gain 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 team.

ISVAs 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 that 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 in 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, it will also review the unused materials to ascertain whether they meet the disclosure test, that is, 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.

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.

7. Preparing for court

Only 1.6% (Home Office, 2021) of rape cases result in someone being charged and fewer reach trial at Crown Court in England and Wales; therefore, the likelihood of an ISVA supporting a victim at court is small. However, if a victim is called to court, it can be helpful to remind them of the ISVA notes that they consented to share with the prosecution and defence, as these may be presented as evidence in court. ISVAs should also ensure the victim is aware of the special measures available to them, including clearing the public gallery, a screen

around the victim, or cross-examination via a live link. If the victim is a child, they can also apply for pre-recorded cross-examination in advance of the trial under S28 of the Youth and Criminal Justice Act 1999.

If an ISVA or therapist was the first disclosure witness, they may be called to court and cannot speak to other witnesses, including the victim, until after the trial. In this situation, another ISVA will need to support the victim through the trial.

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

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