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A Therapist's Guide

Practice principles from the
CPS 'Guidance on Pre-trial
Therapy' 2021

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.

About this guide

When providing victims of sexual violence with therapy before a criminal trial, therapists should follow a set of principles. The current guidelines are outlined by two Crown Prosecution Service (CPS) documents: '[Therapy: Provision of Therapy for Child Witnesses Prior to a Criminal Trial](#)' and '[Therapy: Provision of Therapy for Vulnerable or Intimidated Adult Witnesses](#)'. In response to the 2017–2020 consultation, the CPS has published '[Draft guidance on pre-trial therapy](#)'. This guide is based on new draft guidance and will be finalised on its publication, expected in 2022.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 This will help therapists interpret the new principles of the draft guidance to advise victims of sexual violence about access to therapy while the criminal case is ongoing.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.

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.

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1. Key messages from the CPS draft 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.

CPS guidance, as a set of principles for good practice, includes some recommendations for therapy types before a criminal trial.

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.

Therapy sessions will focus on the impact of the incident on the victim. The therapist will not ask the victim to recall the detail of the allegation. 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 will need to be recorded and shared

Certain therapeutic approaches are not recommended due to suggestibility to the victim and the impact they may have on criminal proceedings.

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 victims, 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. According to the CPS draft guidelines, 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 group therapy and hypnotherapy, and why this choice may have implications for the investigation and prosecution
- Advise the victim that therapy notes can be requested if the CPS or court thinks they form part of a reasonable line of enquiry. Only with the victim's consent can the notes be shared with police, prosecution, and defence team
- Support the victim if police and prosecution service ask the victim to consent to their notes being accessed.

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 appropriate as pre-trial therapy and those not recommended by the draft CPS guidelines.

Beneficial therapies	Child-focused therapies	Not recommended
Narrative Exposure therapy (NET)	Psychoeducation including safety, sexual health and relationships	Group therapy – hearing accounts of others could lead to collaboration, confabulation, fantasy or undue influence
Prolonged Exposure (PE)	Relaxation and grounding techniques	Hypnotic age regression
Trauma-Focused Cognitive Behaviour Therapy (TF-CBT)	Recognition and expression of their feelings	Deliberate attempts to recover forgotten memories
Sensorimotor and Body-Oriented Therapies	Empowerment	Leading questions, suggesting to a victim what may have happened
Eye Movement Desensitisation and Reprocessing (EMDR)	The psychological consequences of abuse such as guilt, shame and difficulty trusting others	Recovered memory therapies that could produce false memories (e.g., dream interpretation, guided imagery)
	Assertiveness and communication skills	
	Trauma-focused therapy to process traumatic memories	
	Wishes, hopes and fears for the future	

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 process¹.

The therapist should inform the officer in the case (OIC) of new or additional disclosures as soon as possible, and 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.

¹ 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.

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

CPS 'Therapy: Provision of Therapy for Child Witnesses Prior to a Criminal Trial': <https://www.cps.gov.uk/legal-guidance/therapy-provision-therapy-child-witnesses-prior-criminal-trial>

Therapy: Provision of Therapy for Vulnerable or Intimidated Adult Witnesses': <https://www.cps.gov.uk/legal-guidance/therapy-provision-therapy-vulnerable-or-intimidated-adult-witnesses>

'Draft guidance on pre-trial therapy': <https://www.cps.gov.uk/publication/draft-guidance-pre-trial-therapy>

References

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