Gweithio'n Gytûn Ar Gyfer Plant

Working Together For Children

South East Wales Safeguarding Children Board

Protocol for provision of pre-trial therapy for child witness

Date first ratified by SEWSCB:	Developed by:	Date to be reviewed:
23rd February 2016	Protocols and Procedures Sub-Group	23rd February 2017

INTRODUCTION

This Protocol has been drafted as suggested in part 5.1 of The All Wales Child Protection Procedures (2008) and should be read in conjunction with these Procedures.

1. PRIOR TO THERAPY TAKING PLACE

1.1 At the outset of therapy an understanding should be reached with the child and carers of the circumstances under which material obtained during therapy might be required to be disclosed. Confidentiality cannot and should not be guaranteed to children of families.

1.2 Professionals from agencies responsible for the welfare of the child, in consultation with either those having legal parental responsibility for the child, or the child's carer (whoever is appropriate in the circumstances) and, if of sufficient age and understanding, the child concerned, decide as to whether and in what form therapy is to take place.

It is not a decision for Police or CPS.

1.3 Prior to the case being allocated to a therapist, if there are professionals from agencies responsible for the welfare of the child, they should liaise with the police officer in charge of the investigation to ascertain if there are any outstanding investigative matters or other issues, which may mitigate against the advisability of therapy commencing.

If in other cases, where there are no professionals from agencies responsible for welfare of the child involved, then the person receiving the referral must liaise with the police officer in charge of the investigation to ascertain if there are any outstanding investigative matters or other issues which may mitigate against the advisability of therapy commencing.

1.4 The therapist should have appropriate training according to the level of work to be undertaken as well as thorough understanding of the effects of abuse.

Membership of an appropriate professional body or other recognised competence is expected. They must also have a demonstrably good understanding of the rules of evidence for witnesses in criminal proceedings and awareness that where appropriate the defence may apply for disclosure of their records.

1.5 The Police Officer in charge of the investigation will inform the relevant Unit Head, CPS, Gwent that the child is to commence therapy and the nature of the therapy. The Police Officer will inform the lawyer allocated to the case who will then offer advice if requested in individual cases on the likely impact on the evidence of the child receiving therapy.

See attached notification to CPS proforma – Appendix A

1.6 Prior to therapy commencing, the Police Officer will make available to the therapist a copy of the child's statement or transcript of video recorded interview and details of the charges the perpetrator faces, consulting with the lawyer in CPS allocated to the case if necessary.

2. THERAPY BEGINS

2.1 Hypnotherapy, psychodrama, regression techniques and unstructured group therapy where the specific recounting of abuse takes places should be avoided.

2.2 The child should receive individual sessions with the same therapist. As a general principle no group sessions should take place prior to child giving evidence.

2.3 In general, the therapist should avoid using leading questions, discussing the evidence which the child or other witnesses will give, including exploring in detail the specific allegations made.

2.4 The therapist should make immediate factual, concise and accurate recording of the session at the end of each session.

See attached proforma record of therapy – Appendix B.

This record should contain the following details:

a. Date and location of sessions
b, Name of therapist
c. Names of anyone else present
d. Length and theme of the session
e. Confirmation that records were made

2.5 If a child talks about his/her abusive experiences for which the perpetrator is awaiting trial, the therapist should acknowledge what the child has said and make appropriate generalised comments (e.g. it is not right when grown-ups hurt children etc) but should not ask probing investigative questions.

2.6 Should a child disclose further abusive experiences, the therapist should refer these to Social Services with a view to a joint investigation being pursued. Current therapy will continue during this process.

2.7 The record of therapy proforma, which is completed after each session, should be copied twice and one copy held on the therapy file. The original and other copy should be forwarded to the police who keep the copy and forward the original to the CPS. The therapist should also complete a covering proforma, which is sent with the record of therapy proforma to police who forward it to CPS.

(See Appendix C)

3. DISCLOSURE ISSUES

3.1 CPS disclosure duties are contained in Criminal Procedure and Investigations Act 1996 and the Attorney-General's Guidelines.

3.2 These require the prosecution to disclose any material, which might undermine the prosecution case or assist the defence case.

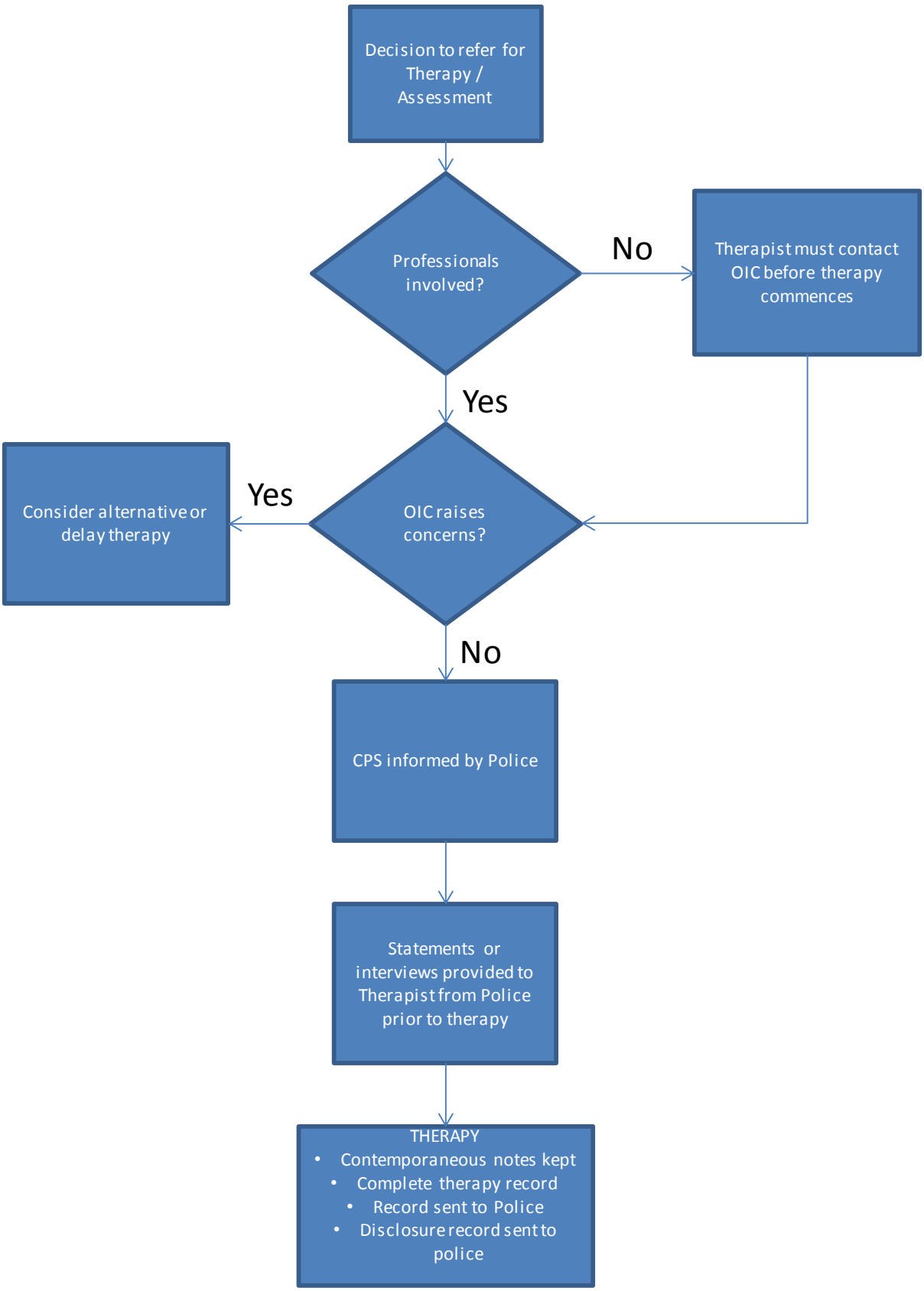
3.3 CPS will seek an assurance from the therapist via the Police that the witness did not, in the therapy sessions, say anything inconsistent with the statements made by the witness to the police and may need to be made aware of the contents of the therapy sessions when considering their duties of disclosure. This is covered in the proforma Appendix C.

3.4 Defence will be informed by CPS that therapy has taken place.

3.5 The defence may, where appropriate, apply to the Court for disclosure by way of a witness summons issued to person holding the records.

3.6 It will be for the court to decide whether any part of the records of therapy should be disclosed, but in the majority of cases public interest immunity would be applied to prevent therapy records being disclosed.

Flowchart for Pre-Trial Therapy Process



Appendix A

NOTIFICATION TO CPS THAT CHILD IS TO RECEIVE PRE-TRIAL THERAPY

To:

From: Name Officer: ……..

Police Station: ……

Date: ……

RE: REGINA V.

The above named defendant has been charged on with an offence(s) of

(Name of Child) is a witness/complainant in the case.

He/She is to commence therapy prior to the trial taking place.

Name of agency,
Address
Telephone No
email: ……

Nature of therapy: ……

Appendix B

BRIEF DETAILS OF THERAPY SESSION

Name of Child	Name of Therapist	Location of Therapy	Length of Session	Records Available Y/N	Any Other Person Present: Y/N If yes, give details and relationship to witness, if any

Appendix C

DISCLOSURE OF INFORMATION RE THERAPY SESSIONS

Name of Defendant:

DOB:

Offence Charged:

Name of Child Witness:

DOB:

Name of Therapist:

Organisation:

Was the therapist aware of full details of charges defendant faces? YES/NO

Has therapist seen statement made by witness to police? YES/NO

Did witness say anything inconsistent with statements made by witness to the Police? YES/NO

If yes – please give details

Has the child taken part in group therapy prior to trial? YES/NO

Date …… Signed ……