

January 2003.

## **Child Witness Support Consultation Document**

The Scottish Rape Crisis Network is a voluntary organisation representing the rape crisis movement in Scotland. Member groups of the Network provide free and confidential support to women and girls who have experienced rape, sexual assault and /or child sexual abuse.

We have general comments on the overall document, and specific comments on Sections 1, 3, 4 and 6. We have therefore structured our response accordingly.

### **General Comments**

The Scottish Rape Crisis Network welcomes the overall aim of the consultation document, which is to lessen as far as possible the additional trauma which can be caused to children and young people by going through the criminal justice system, whether as a victim or as a witness of a crime.

We believe that it is essential, to ensure that the proposals in this document achieve this intended aim, that services for children and young people are properly resourced. This applies to both the proposed Child Witness Support Service and organisations / agencies such as social work and voluntary organisations providing a support service to children and young people.

We also believe that the context in which children and young people become involved with the criminal justice system as victims or witnesses is worth stating. Although children and young people will become involved in the criminal justice systems as victims or witnesses for a number of reasons, the issues relating to abuse, either children / young people directly experiencing abuse or witnessing, for example, domestic abuse are such that it is worth giving this context. The consultation document as a whole acknowledges this implicitly by the issues it covers, for example the guidance on therapy (section 3) and guidance on interviewing child witnesses (section 2) but does not explicitly set out the context in which children / young people are victims or witnesses.

We would like to stress the need for clear monitoring and evaluation procedures to be put in place to monitor and evaluate the effectiveness, when implemented, of the proposals contained in this document.

Finally, we view the implementation of the proposals contained in the consultation document 'Vital Voices' as being an essential element of any moves to improve the experience of children and young people in the Scottish Criminal Justice system.

### **Section 1**

The Scottish Rape Crisis Network is supportive of the principle of establishing a Child Witness Support Service.

### **Section 3**

We are very supportive of a code of practice being developed to clarify the issue of whether children and young people can access support or counselling prior to a court case. In our experience, the confusion that has surrounded this issue has actively prevented children and young people accessing support that they need and should be able to receive.

Further, we consider that it would be useful to produce guidelines for non-abusing parents of children and young people who have experienced abuse, many of whom are unclear about how much, if at all, they can talk to their child about what has happened to them.

We were not completely clear about what was included in the definition of therapy, as used in this section. The document is not clear whether the term therapy as it is used throughout this section includes the support offered by voluntary organisations, for example from rape crisis centres, young women's projects etc. We would be very concerned should any definitions of therapy limit the options available for children and young people seeking support. We would therefore oppose any decisions about 'the competence of any single individual to undertake psychotherapy or counselling with a child who is to be a witness in a court case' (**para 46, p11**) being based solely on qualifications. Similarly, the proposed requirement for

'membership of an appropriate professional body or other recognized competence' could exclude, depending on the definition of 'professional body', some voluntary organizations. Many voluntary organisations provide an excellent support service to young people. Staff in these projects may not have formal qualifications but this does not mean that they will not have undergone rigorous training and assessment procedures.

We would welcome firmer guidance in relation to what level of 'detailed recounting' of abuse (**para 76, p15**) is acceptable. As you correctly identify, there exists a possible perceived tension between the need of the child/young person to receive support for their experiences and the need for witnesses not to be seen as having been 'coached'.

We are not convinced of the practicality of implementing the proposal contained in **para 79, p16**, which requires therapists to notify social work or the police of the disclosure of any materially new allegations, or inconsistency with the original allegations. This implies that any therapist will have access to a copy of the police statement made by the child/young person. We are not aware that the proposals in this section of the document provide for this, and further are not convinced that this would always be beneficial. Again, this may depend on what definition of therapy is being used. For example, a young person may access support through a helpline, and the staff running the helpline may not be linked into any co-ordinated process with other agencies involved with the child/young person.

Children and young people often find it very difficult to disclose and speak about their experiences, particularly in relation to sexual abuse. Building trust within a support relationship is essential to enable the child/young person to access the support they require, and for this to happen confidentiality should be maintained as far as possible.

In relation to records of therapy and confidentiality, the Scottish Rape Crisis Network believes that any records of support/counselling should be confidential. We would like to see far greater protection for organisations offering a confidential service, and people and children using these services, as in our opinion support services should not be required to disclose this information to outside agencies, including defence lawyers.

## Section 4

The Scottish Rape Crisis Network supports the introduction of guidance for child witness familiarisation visits to court.

Our only comment on the proposals in this section relates to **point 14, page 5** on Support Persons. This paragraph states that the support person 'would normally be the child's parent or carer'. Given the context in which child abuse happens, where research confirms that the majority of child abuse is carried out by family members, we are not convinced that it is fair to make this assumption. Further, a child or young person may not want a non-abusing parent to be present in court while they are giving their evidence. Our experience at Rape Crisis is that some young people can find it easier telling of intimate and personal experiences without their parent / carer being present. Ultimately, we believe that it is essential that the child or young person has control over who they want their support person to be.

## Section 6

The Scottish Rape Crisis Network welcomes and supports the proposals contained in this section. While we recognise that giving evidence in a court case is always going to be a difficult or traumatic experience, we believe that the criminal justice system has a responsibility to lessen this trauma as far as possible. We welcome the emphasis on the Court intervening if questioning is aggressive or inappropriate.

We also welcome the proposal in **para 14, p5** which states that the child should be introduced to the examiners in advance of their examination. This is something which could go some way to lessening the intimidating and confusing nature of a court case for a child or young person. It is also something which, although outwith the scope of this consultation document, we would like to see extended to adult witnesses / complainers, particularly in sexual offence cases. There seems to be much confusion about whether advocates introducing themselves prior to cases starting is acceptable practice or whether it could be seen to compromise Crown neutrality.

We were very happy to see the development of the proposed guidance being linked with the provision of training around this guidance. We view such training as essential for the measures in any such guidance to work.