

ARRANGING MEDICAL EXAMINATIONS AND
OBTAINING ADVICE FOR CHILDREN SUSPECTED
OF BEING SUBJECT OF ABUSE

1. Need for Medical Examination

- 1.1 Medical examination, as an element of medical assessment, is an essential component in the multi-disciplinary assessment of child abuse. In order to make the most effective contribution, it is important that the examining doctor has clear information about the cause for concern and the known social background of the family, including previous instances of abuse, or suspected abuse. The number of examinations to which a child is subjected should be kept to a minimum.
- 1.2 Information sharing and discussion between medical, nursing, social work and police colleagues should be encouraged at all times to facilitate good liaison and the communication of concerns.
- 1.3 Medical examination has four purposes.
 - (i) To establish what immediate treatment the child may need.
 - (ii) To secure any ongoing medical care, monitoring and treatment the child may require.
 - (iii) To provide information which will support or dismiss a diagnosis of child abuse in conjunction with other assessments made, so that agencies can initiate further enquiries without delay.
 - (iv) To provide information or evidence, if appropriate, to sustain criminal and/or care proceedings.
- 1.4 Respect for each other's expertise and roles will ensure that medical, police and social work staff will give due weight to the contribution provided by each service. Medical assessment should not therefore be overlooked simply because other enquiries disclose little or no concern. In some cases of child abuse, there will be no obvious signs or symptoms, and some children will require diagnostic procedures only available in a well equipped hospital or clinic. Because of this, the medical component must not be missed in any assessment of suspected child abuse, and the whole process of investigation should reflect the unique contribution which can be made by skilled medical, police and social work intervention. In terms of evidence gathering, the police have a duty to provide best evidence, including medical evidence, to the Procurator Fiscal and the Children's Reporter in appropriate cases.

2. Arranging Medical Examinations

- 2.1 In suspected cases of child abuse there should be discussion with health regarding the type of medical required. The Lead Clinician should be the first point of contact but if not available there is a paediatrician on call Monday to Friday. The Advanced Nurse Practitioner for Children and Families can also be contacted. A fundamental principle in arranging medicals is the need to secure the co-operation and involvement of the parent(s) and child which should be actively sought at all times. However, when a parent or guardian is

a suspect, their attendance during the examination may be problematic and this should be fully discussed by all the agencies in advance of the examination. Written consent will be required from the person holding parental responsibilities or from the child if the age of legal capacity permits. NB where the child has capacity determined by the physician the child may refuse to give consent in which case the examination cannot proceed.

- 2.2 When a Child Protection Order is obtained, the medical should be extended to cover an accommodation medical if practicable.
- 2.3 If the child/young person has a preference for a male or female doctor to conduct their medical examination, this preference should be stated when the medical examination is being arranged. The child or young person should be informed that their preference might not be possible.

3. **Medical Examinations**

- 3.1 In some cases the advice given may be to take the child to the General Practitioner as a screening medical to obtain more information or to A&E if the child requires immediate medical attention. Advice may be to move straight to a Joint paediatric/forensic medical examination. Physical and sexual abuse, failure to thrive, or emotional abuse are not discrete entities, therefore the examination should be a comprehensive medical assessment of the child, carried out by non-intrusive techniques and should therefore not include internal vaginal or rectal examination. When records are available, it should be standard practice to compare height, weight and head circumference information against these records, including centile charts whenever possible. The child will require to be accompanied by a parent or other trusted adult during this process. A decision about who should accompany the child will be determined by the circumstances of each individual case.
- 3.2 Full information should be give to the doctor as to the cause for concern, and any relevant family history, prior to the examination taking place.
- 3.3 If a child attends or is taken to A&E any medical treatment will obviously be carried out as appropriate but the child will then be dealt with according to the degree of concern existing after initial examination. In each case, the examining doctor will consult the child protection register to ascertain if the child is already recorded there. After this initial action the process may follow one of the following courses.
 - (a) In cases of injury or other circumstances where there is little doubt that abuse has occurred and the child is still at risk the A&E department will follow their Child Protection Policy.
 - (b) In cases, where abuse has possibly occurred, but has not been confirmed, the child will be referred to the appropriate specialism as a possible case of abuse, the joint paediatric/forensic examination will be initiated if considered necessary by the Senior Doctor in the specialism, who must be fully advised of the concerns about the child.

- (c) In cases where the child is brought to the Accident and Emergency Department by a carer and lack of corroborating evidence makes diagnosis doubtful but child abuse cannot be excluded, the examining doctor will use his/her own judgement as to whether or not to admit the child pending further enquiries. In all doubtful cases, follow up should be initiated by immediate contact with a social worker who can co-ordinate information about the child from a variety of sources. The Out of Hours Social Work Service can perform the same task when social work offices are closed and can be contacted by telephone at Dundee 01382 432270.
 - (e) When a child is admitted to hospital following referral to the Accident and Emergency Department a joint forensic/paediatric examination is initiated by making contact with the Attending Consultant Paediatrician by the police operations room at Dundee or Forfar.
- 3.4 If a joint paediatric/forensic medical is required it should normally be carried out in an appropriate setting within Seymour Lodge, Dundee or a Paediatric Department in Ninewells Hospital. The need for such an examination should always be discussed with the hospital consultant paediatrician if the child is hospitalised or the community consultant paediatrician if the child is not hospitalised.
- 3.5 Examinations would not normally take place in a police station except that, in some cases of consensual sexual activity (forensic only medical), there may be a need to expedite examination to avoid losing criminal evidence/trace evidence and a police station with suitable facilities may be used for this purpose. Corroboration of forensic findings may also be necessary and this could be a decision for the Procurator Fiscal. The term trace evidence would include semen, blood, transferred fibres etc.
- 3.6 The joint paediatric/forensic examinations should be arranged without undue delay. In cases where it is apparent that this type of medical is required social work staff will already be actively involved. The police officer present will initiate the forensic element of the joint examination through the normal force procedure and there should be direct discussion with the on call hospital consultant paediatrician if the child is an inpatient or the community consultant paediatrician if the child is not hospitalised.
- 3.7 The venue and timing of the joint examination should be fully discussed with the police and social work staff who will have the responsibility for taking the child (and parents) to the examination. This joint examination is intended to encompass the child's needs for medical care and the legal requirement for evidence in a single examination. Certain children may, of course, require further referral to neurosurgery, gynaecology, genito-urinary clinic or other specialist services within the hospital. The examining doctors will make the necessary referrals.

4. Reports

- 4.1 It is imperative that all examination result in a clear report of the findings, and the doctors considered opinion. These reports should be carefully recorded for onward transmission to the Authority Reporter and/or Procurator Fiscal. Medical samples, if part of the evidence, are the responsibility of the police officer in attendance. In most cases a legible written report will be available immediately to police and social work staff, with a full report being provided within three to four weeks. In cases where a Child Protection Order has been taken and is being considered at the second working day hearing, it is important that a sufficiently detailed report is available to meet the Children's Reporter requirements. Similarly, if the alleged perpetrator has been detailed by the police for a Court appearance on the second working day, the information must be available for the Procurator Fiscal. Written reports may have to serve more than one purpose (e.g. Children's Reporter, Procurator Fiscal) and sufficient copies should be made available. It is important that a written report is available at this stage and work contact details of the medical examiners are recorded on the report in case further clarification is required at an early stage.
- 4.2 In general, a parent should be told the results of a medical examination of their child. Where appropriate, depending on the age of the child, an explanation should be given to them also.

5. Timing of Medical Examinations

- 5.1 It is expected that medical examinations will occur within the working day with agreement from all involved agencies after discussion.
- 5.2 After normal working hours, there should be discussion between the out of hours on call paediatrician regarding the need for an examination.
- 5.3 In some cases of alleged physical abuse (where the alleged incident has taken place some time previously) or there are diffuse concerns about possible sexual abuse the major need will be to plan intervention carefully, rather than at a time when the skilled personnel and specialist staff are not available. Hasty intervention may merely be inconclusive and leave an abused child in a situation of continued danger. In situations such as this, the investigating agencies will require to ensure that there is no immediately physical risk to the child. Consultation must then take place with the appropriate medical authority (e.g. Duty Child Health Doctor, Consultant Paediatrician and Clinical Forensics specialist) in order to:
- (a) provide full information on the child's circumstances, and the allegations and discuss the need or otherwise for an early examination and, if not
 - (b) make arrangements for a medical assessment at a suitable time, taking into account the circumstances of the case.

- 5.4 It should be noted that in regard to sexual abuse that 50% of all children so abused will have experienced abuse of a type where no abnormal physical sign will be present. It also needs to be emphasised that, if there is any doubt about the child's health or current medical condition, medical assistance should be sought immediately.

6. **Legal Aspects of Medical Examinations**

- 6.1 The age of Legal Capacity (Scotland) Act 1991 reads in part:

“A person under the age of 16 years shall have legal capacity to consent on his own behalf to any surgical, medical or dental procedure or treatment where, in the opinion of a qualified medical practitioner attending him, he is capable of understanding the nature of the possible consequences of the procedure or treatment”.

NB if a child is able to give informed consent they are also able to refuse consent to an examination.

- 6.2 It can be assumed that if a parent or guardian takes a child to the doctor, that action may be assumed to imply a consent to all examinations of that child considered necessary in the clinical judgement of the doctor. Any necessary examinations of the child while an in-patient in hospital would be assumed upon the parent (or guardian) consenting to the child's admission to hospital. However, it is clear that specific consent is required where a general anaesthetic, taking a blood sample or similar or surgery is contemplated. NB see 6.1 above.

- 6.3 If a child is subject to a Child Protection Order then a direction regarding any medical assessments must be obtained from the Sheriff at the time of application. If this is not obtained but later required then an application to the sheriff for a variation of the Child Protection Order to include medical examination could be made but also parents and the child (if able to give informed consent) may give consent. Any Children's Hearing considering the child's case could make examination and treatment a condition of a place of safety or supervision requirement. Under section 55 of Children (Scotland) Act 1995 an application can also be made for an assessment order. See section 66, 69 or 70(5) of Children Scotland Act 1995.

- 6.4 If consent is withheld and a child is not subject to any statute then two possible remedies remain:

- (a) In Civil matters (such as care proceedings) an application to the nobile officium of the Court of Session may be the only remedy.
- (b) In criminal matters, (i.e. The proposed prosecution of a suspected perpetrator) a warrant may be issued by the Sheriff Court on the application of the Procurator Fiscal to secure evidence for the Crown's case. In general, this provision may only be available for cases of serious crime.

- 6.5 In cases under (a) the advice of the Authority Reporter for the Children's Hearing the involvement of the Department of Law and Administration should be quickly sought while in relation to cases under (b), the Procurator Fiscal would be consulted by the police.

In this connection reference should be made to Section 12 Children and Young Persons (Scotland) Act 1937 if parental consent is withheld for a clinical BUT NOT FOR a forensic examination to take place. It is an offence for any person who has attained the age of 16 years and who has custody/charge or care of a child to wilfully neglect the child in a manner likely to cause unnecessary suffering or injury to health by failing to provide the child with adequate medical aid. The offence is committed not only by a parent with parental rights over the child, but any other person if at the material time, that person has custody, charge or care of the child.

It should be noted that a normal test of the validity of consent is that it should be informed consent. In relation to medical examination it has been held that the need for informed consent is probably fulfilled if the doctor acts reasonably in accordance with "a practice rightly accepted as proper by a body of skilled and experienced medical men" in relation to disclosure and evaluation of any risks.