

## Additional Guidelines

### Immediate response to the child

It is vital that our actions do not abuse the child further or prejudice further enquiries, for example:

- ◇ Listen to the child, if you are shocked by what is being said try not to show it
- ◇ It is OK to observe bruises but not to ask a child to remove or adjust their clothing to observe them
- ◇ If a disclosure is made the pace should be dictated by the child without them being pressed for detail by being asked such questions as “what did they do next?” or “where did they touch you?”. It is our role to listen not to investigate. Use open questions such as “is there anything else you want to tell me?” or “yes?” or “and?”
- ◇ Accept what the child says. Be careful not to burden them with guilt by asking questions such as “why didn’t you tell me before?”
- ◇ Do acknowledge how hard it was for them to tell you this
- ◇ Don’t criticise the perpetrator, this may be someone they love
- ◇ **Don’t promise confidentiality**, reassure the child that they have done the right thing, explain whom you will have to tell (the designated person) and why. It is important that you don’t make promises that you cannot keep such as “I’ll stay with you all the time” or “it will be alright now”.

### Recording Information

- Make some brief notes at the time or immediately afterwards; record the date, time, place and context of the disclosure or concern, recording facts and not assumption and interpretation. Notes must be signed and dated.
- Observed injuries and bruises are to be recorded on the Body Map. (Appendix 4)
- Note the non-verbal behaviour and the key words in the language used by the child (do not translate into “proper terms”).
- It is important to keep these original notes and pass them to the designated person.
- All referrals to Social Services must be followed up within 24 hrs in writing using the referral pro-forma (Appendix 2).

### The legal aspects of undressing children in cases of suspected abuse

There is no problem in undressing and examining children if the parent has consented to the child being undressed and examined. Problems arise in cases where the parent either refuses to permit the child to be undressed and/or examined or the parent is absent and his or her consent cannot be obtained. In connection with the latter there will often be circumstances when it is not practicable to obtain the parents' consent. Before considering the practical approach and solution to the problems, the legal background should be noted.

The law makes no special provision for a person who is professionally concerned in the safety and welfare of children to require the child to be undressed if there is a suspicion that the child may have been ill-treated or otherwise abused. The consequences of undressing the child in such circumstances must, therefore, be considered against the background of both the criminal and the civil law.

Firstly, in regard to the criminal law, a person who undresses a child without parental consent, providing that he or she has reasonable cause to believe that a child may have been ill-treated or otherwise injured, does not commit the offence of assault or any offence involving indecency. These offences can only be committed if the offender has or had an unlawful intention. In the case of assault, this is an act which, by definition, intentionally or recklessly causes another to fear immediate and unlawful violence. In offences of indecency, the offender must have the intention of behaving indecently.

With regard to the civil law, the touching of another person without his or her consent is technically a "trespass to the person", and is again, technically, a tort committed against that person. Therefore, in theory, the touching of a child without the parent's consent or consent of the child would be a tort committed against the child. However, any claim made for this tort would fail unless it could be shown that there was no reasonable cause for the action complained of. Any parent who claimed on behalf of his or her child in such circumstances would be most unlikely to obtain an award of even token damages.

The position of teachers, playgroup leaders, child minders and the like is legally different in that they are "in loco parentis" in respect of the children who are in their charge. Thus, for example, children's leaders would not commit a tort by examining a child without the consent of the child or the parent. The only exception to this would be where the parents had expressly forbidden any such examination; any parent purporting to lay down such a prohibition should always be requested to put it in writing, but a verbal request must be complied with. A record should be made of such a verbal request.

If a parent is present, or is consulted, and refuses to undress or permit the undressing of the child, there is little to be gained by insisting that the child should be undressed. If the SDO has reasonable cause to believe that the child may have been ill-treated or otherwise injured or abused, he or she should immediately take the action as set out in the procedures.

If the parent cannot be contacted, and no express prohibition exists in relation to examination, it would be reasonable to act as if there were an implied consent. However, if the parent is contactable either at work or at home, efforts should be made to consult the parent. However, the circumstances may well require that the child be examined with a view to possible urgent treatment. These circumstances will normally involve medically trained and/or qualified personnel. They will have a duty to ensure that any injuries are, in fact, treated as soon as this is necessary.

Where it is not practicable to seek and obtain parental consent, it is reasonable to take the child's age into account. In the case of a very young child, who is not able to understand what is being asked of him or her, little harm is likely to be caused by undressing and examining the child as soon as there is reasonable cause to believe that this is necessary. If the child is older, and is able to understand what is being asked of him or her, he or she should be asked to consent to being examined. If the child refuses to give such consent, then the procedures set out above should be followed.

In all cases where the parent is not present, at least two professional adults should normally be present when the child is undressed and examined.