

A Scheme of Arrangements for Experts undertaking
Assessments for Courts

Disciplines of Child and Adolescent Psychiatry
Children Act Work

A scheme proposed by the London Higher Specialist
Training Schemes in Child and Adolescent Psychiatry

Supported by the Family Justice Council

September 2006



The One Garden Court Group

Particularly since the commencement of the Children Act 1989 in the autumn of 1991 outcomes in both Public Law and Private Law cases have drawn heavily on assessments and opinions provided by expert clinicians from a wide variety of medical and mental health specialities. For almost 10 years now the Interdisciplinary community has struggled to secure the future both by alerting ministers and officials to the vulnerability of the service and by encouraging education and training initiatives to encourage young clinicians to enter the field.

The Future remains insecure. The issue has been driven high on the political agenda. The report from the Chief Medical Officer is now long overdue.

In this climate of uncertainty and anxiety individual initiatives with a clearly defined and achievable objective are particularly valuable. The One Garden Court Group scheme exemplifies what can be achieved by a dedicated group of lawyers and psychiatrists. From its origins the development has been discussed with, and supported by, the Family Justice Council. The valuable potential of the scheme is self evident. Achieving that potential is dependant upon the willingness of mentors and assessors to participate and the readiness of practitioners and judges to recognise the value of a mentored assessment. Judges will need to recognise that each report is not only a valuable contribution to the determination of the case but also a contribution to the vital work of securing the future contribution of forensic medicine to the Family Justice system. Judges must be sensitive to the anxieties of the young clinicians, recognising how daunting the forensic process and the conventions of the adversarial system are to other professions. The One Garden Court scheme is a pilot to operate in London in the discipline of Child and Adolescent Psychiatry. The Scheme offers an opportunity for judges to contribute to building the confidence of young professionals ready to undertake the stresses of making their expertise available to the resolution of these most difficult cases.

Mathew Thorpe
Deputy Chair, Family Justice Council

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Disciplines of Child and Adolescent Psychiatry:
Children Act Work**

INTRODUCTION

The Final Report of the Lord Chancellor's Advisory Committee on Judicial Case Management in Public Law Children Act Cases (May 2003) noted a number of "major obstacles to success" that threatened to impede the progress that could be achieved by the Public Law Protocol. Amongst these obstacles they listed "a shortage of experts in a number of fields [that] prevents the swift hearing of cases in some areas. The Protocol should help, but the problem persists."

Since May 2003 there has been no notable change in the availability of experts. Indeed, there is a risk that recent events have disinclined some experienced experts to accept instructions. The same events are highly likely to have put off other potential new comers.

A principal difficulty is that specialist registrar training offers only a limited framework within which new experts can be identified and by which they can be guided in coming to assist the courts. There is here proposed a scheme which would help to fill a gap.

The scheme proposed provides a formal mechanism for the recruitment and oversight of clinicians acting in the role of court reporter (referred to as "Assessors" in the scheme). Such clinicians will be experienced in their own field but new, or relatively new, to the role of court reporter. The objective of the scheme is to ensure that interested parties are assured that forensic reporting work is undertaken to a high standard. The interested parties are: the children concerned, the judiciary, child care lawyers and their clients and clinicians.

The objective of the scheme will be achieved by clearly setting out:

- ♦ Minimum standards by way of qualification of those taking part
- ♦ Minimum levels of specialist training to be undertaken by participants in the scheme
- ♦ A framework to be applied in the conduct of the assessment and the presentation of a court report.

The scheme itself sets out a formal framework within which a court report will be accepted, prepared and presented. The roles of Assessor and Mentor are clearly defined (see below).

The scheme, as drafted, is designed for use within the discipline of Child and Adolescent Psychiatry. It is proposed as a pilot scheme for the London area. If

successful, it is expected that it will be capable of extension to all regions and adaptation to suit different disciplines.

THE SCHEME

The Mentor

This scheme will be available to established experts experienced in court reporting and who fulfil the qualification requirements of this scheme. Typically, the established expert will receive more referrals for court work than he or she is able to fulfil. The established expert will be permitted to hold him or herself out as available as a Mentor within this scheme.

The Assessor

The Assessor will be a clinician who fulfils the qualification requirements of this scheme and who holds him or herself out as available to prepare court reports with a Mentor as set out in this scheme.

Mentors and Assessors may be from within the same team or may be identified and selected for individual cases. An existing professional relationship between Mentor and Assessor, or lack of such relationship, is not material to this scheme.

QUALIFICATION FOR THE SCHEME

Mentors

A Mentor will be a senior consultant with an established record of providing court reports. He or she will be able to meet the following criteria:

- 10 years or more experience as a consultant;
- Has forensic training experience;
- Is working within the NHS or has done so within the previous 2 years;
- Has undertaken at least 20 court reports and given evidence in Court at least 10 times;
- Is willing to participate in peer review within the scheme, when requested so to do.

At the pilot stage a number of established experts in the London area will be approached to ask if they are willing to join the scheme.

Assessors

An Assessor will fulfil the following criteria:

- ♦ He or she will be at least at the level of 3rd year Specialist Registrar and will possess the Core Competencies set out in Appendix 1 of this scheme.
- ♦ He or she will have attended a forensic course specifically aimed at child and adolescent mental health professionals (see below).

- ♦ He or she will have attended at court to hear an expert in the same field give evidence and will have attended a judicial mini-pupillage or marshalling scheme.
- ♦ He or she will provide a reference as follows:
 - ♦ In the case of a consultant, from the lead clinician for the service in which he or she is currently employed
 - ♦ In the case of a Specialist Registrar, his or her current educational supervisor.

The reference will state whether the potential Assessor is able to meet the Core Competencies.

The course attended by the Assessor will have covered the training requirements as outlined by the Child and Adolescent Psychiatry Advisory Committee (CAPSAC) and covered the course components set out in Appendix 2 of this scheme. The Assessor may evidence attendance either by a course certificate or by a letter from the training supervisor to confirm attendance.

The lead trainer for forensic training in each Specialist Registrar Training Scheme will maintain a list of Mentors and Assessors participating in this scheme. The lead trainer shall decide, in his or her absolute discretion, whether any individual appropriately fulfils the criteria for qualification within this scheme. The names and contact details of the lead trainers for this pilot scheme are set out in Appendix 3.

CASES SUITABLE FOR THE SCHEME

Whether an individual case is suitable for the scheme is a matter for the Mentor and Assessor to determine upon being invited to prepare a report subject to the scheme and is always subject to the direction of the Court. The following guidance may assist in identifying appropriate cases.

Cases involving the following may be particularly suitable:

- ♦ Where the child involved has a specific psychiatric disorder or the case revolves around whether the child has such a disorder;
- ♦ Cases where there is a mentally ill or substance misusing parent;
- ♦ Cases involving physical abuse and domestic violence
- ♦ Cases involving adolescent parents

Cases involving the following are not likely to be suitable:

- ♦ Fabricated or induced illness
- ♦ Child sexual abuse where the validity of the allegation is in doubt
- ♦ Complex adoption cases
- ♦ Parental murder or previous suspected murder of a child (surviving sibling cases)
- ♦ Abduction cases.

Cases involving the following may or may not be suitable, depending upon the complexity of the individual case:

- ♦ Emotional and physical neglect or emotional abuse as the central issue

- ♦ Private law cases. As a guide, those private law cases involving issues centred on the issues listed above as particularly suitable for the scheme are likely to be suitable. More complex cases are not.

INSTRUCTIONS WITHIN THE SCHEME

Initial enquiries will be received by a Mentor. Initial enquiries may be made specifically with reference to the scheme or, in the event of a general enquiry, the recipient of the enquiry may suggest that the case is an appropriate case to be dealt with under the scheme.

If a referral is made for an assessment to be undertaken within the scheme, details of the scheme together with CVs of both the proposed Mentor and the proposed Assessor will be sent to the instructing solicitor.

Once a formal letter of instruction is received the Mentor and Assessor meet together to plan the assessment. The planning meeting will consider the following:

- ♦ The core issues to be considered in the assessment
- ♦ What steps will be taken during the assessment in order to investigate the core issues
- ♦ A consultation plan, that is, a plan as to when the Mentor and Assessor will discuss the assessment further
- ♦ Issues, if any, that need to be raised with the instructing solicitor.

After receipt of the letter of instruction, communication about the assessment, if necessary, will be between the instructing solicitor and the Assessor and subject to the usual requirement that all conversations/communications will be minuted and disclosed.

CONDUCT OF THE CASE (CLINICAL)

The work necessary to complete the assessment will be undertaken by the Assessor.

In addition to the planning meeting between the Mentor and Assessor, the Mentor will meet with the Assessor at least once during the assessment in order to monitor the progress of the assessment. The Mentor will be available to offer telephone consultation throughout the assessment.

The Mentor will meet with the Assessor at the conclusion of the assessment in order to consider its outcome.

It will be the responsibility of the Assessor to:

- ♦ Ensure that he or she is able to make the necessary practical arrangements to conduct the assessment
- ♦ Ensure that he or she is able to meet the requirements for supervision by the Mentor.

CONDUCT OF THE CASE (REPORT WRITING)

The report for court will be written by the Assessor.

The report will be signed by the Assessor and be endorsed by the Mentor as follows:

“While carrying out this assessment Dr X, the Assessor, has met regularly with me as set out in the scheme under which this assessment has been conducted. The assessment was conducted according to good clinical practice. The report has been discussed with me upon completion.”

Signed and dated: Dr Y, Mentor.

If at any stage the Mentor becomes concerned as to the quality of the assessment being conducted, the Mentor will immediately inform the instructing solicitor of this.

CONDUCT OF THE CASE (COURT APPEARANCE)

The Assessor will attend court to give evidence.

Only in exceptional situations is it expected that the Mentor will attend court to give evidence.

FEES

Settling the cost of an assessment is a matter between the instructing solicitor and the Mentor and Assessor. It is the expectation of this scheme that reports prepared within the scheme should be completed at the same cost as reports completed in any other manner approved by the Court. Unless the Mentor and Assessor in any individual case agree otherwise, it is an expectation of this scheme that the fees received for a report prepared pursuant to the scheme will be divided as follows: 90% to the Assessor and 10% to the Mentor.

APPENDIX 1

CORE COMPETENCIES

Core professional knowledge and competencies of Child and Adolescent Psychiatrist expert witnesses in Children Act 1989 cases:

1. A thorough knowledge and understanding of:
 - Child physical health and ill health
 - Attachment theory and its application to child welfare
 - Effects of discontinuities of care
 - Protective factors
 - Parental risk factors and their impact on children
 - Parental mental ill health and substance abuse
 - Domestic violence
 - Learning difficulties
 - Adverse parental childhood experiences
 - Divorce
 - Separation from and loss of parents
2. Capacity to assess:
 - Child's emotional, behavioural, social and cognitive development
 - Child and adolescent psychiatric disorders
 - Effects of trauma
 - Security/insecurity of child's attachments
 - Risk of parents to children
 - Risk of children to others
 - Risk of children to themselves
 - Family interactions
 - Family dynamics, tasks and functioning
 - Adaptive and maladaptive parenting
 - Different family structures, cultural practices and their effects on child development
 - Sibling relationships
3. Ability to recognise:
 - The different forms of child abuse and neglect
4. Knowledge of:
 - Consequences of different forms of child abuse and neglect
 - Treatment for different forms of child abuse and neglect
5. Understanding of:
 - Relative advantages and disadvantages of different placement types
 - Implication for child of different contact arrangements
6. Additional expertise that may be required by the courts in certain cases:
 - Ritual abuse
 - Children with severe learning difficulties

- Children with sensory impairments

7. Ability to:

- Analyse and synthesise a great deal of complex information
- Construct a diagnostic formulation
- Provide a prognosis
- Recommend treatment

The child and adolescent psychiatrist may require additional reports from other disciplines when the following are encountered:

8. Parental learning difficulties

Clinical psychological cognitive assessment to indicate:

- Parents' literacy and numeracy skills
- Areas of cognitive deficits which require supplementing
- Difficulties in understanding concepts
- How information should be presented to parents
- What help the parents require with money
- Effects on child of living with a parent where there is disparity between the parent's and the child's cognitive abilities which will become more apparent with age

9. Parental mental illness

Adult psychiatric assessment to indicate the parent's:

- Diagnosis
- Prognosis
- Nature and duration of treatment needed

10. Child's physical ill health

Paediatric assessment of the child's:

- Diagnosis
- Prognosis
- Treatment needs

11. Child's development

Community/developmental paediatric, developmental psychological or speech therapy assessment of the child's:

- Cognitive development
- Language development.

APPENDIX 2

Components of Training Courses

- ♦ The assessment of parenting
- ♦ The assessment of children's wishes and feelings;
- ♦ The assessment of the nature of the child-parent relationships including attachment
- ♦ Specific issues relating to mentally ill and substance misusing parents;
- ♦ The Children Act - the details relevant to a clinical expert; other relevant law pertaining to children
- ♦ The role and duties of an expert; confidentiality
- ♦ Taking and responding to instructions
- ♦ Report writing
- ♦ Giving evidence as an expert witness: how to prepare, what to expect, the nature of examination in chief and cross examination. Role play involving being examined during a Court appearance.

APPENDIX 3

Contacts

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| <p>Great Ormond Street Hospital & Royal London Dr Margaret De Jong Department of Psychological Medicine Great Ormond Street Hospital for Children London WC1N 3JH 0207 829 8679 DeJonM@gosh.nhs.uk</p> <p>Dr Alyson Hall Hon Consultant Child & Adolescent Psychiatrist East London & City University Mental Health Trust And Child and Family Practice 57a Wimpole Street London W1G 8YP 0207 224 2800 hallyandoli@doctors.org.uk</p> <p>Imperial Dr Claire Sturge The Alexandra Clinic Alexandra Avenue South Harrow. HA2 9DX 0208 966 6479 claire.sturge@nhs.net</p> | <p>Maudsley Dr Brian Jacobs Maudsley Hospital Denmark Hill London SE5 8AZ 0203 228 4399 (Bethlem) 0203 228 3381 (Michael Rutter Centre) b.jacobs@iop.kcl.ac.uk</p> <p>St George's Dr Andy Cohen CAMHS Lanesborough Wing St George's Hospital Blackshaw Road London SW17 0QT 0208 725 2702 andy.cohen@swlstg-tr.nhs.uk</p> <p>Tavistock Dr Mike Shaw Tavistock Clinic 120 Belsize Lane London NW3 5BA 0208 938 2189 mshaw@tavi-port.nhs.uk</p> |
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6. Did the report answer the questions posed in the letter of instruction?

7. Would you use the Scheme again?

8. Do you have any suggestions for the improvement of the Scheme?

9. Have arrangements been made for a copy of any judgment to be made available to the report writer?

Your name:

Title:

Signature:

Date:

Thank you again for your assistance. Could you please return this form to Charles Geekie, One Garden Court, Temple, London EC4Y 9BJ. This form is available at www.lgc.com