

Special lecture

From Cleveland to Orkney*

THE RT HON LORD JUSTICE BUTLER-SLOSS DBE

In November 1992, Lord Clyde's *Report of the Inquiry into the Removal of Children from Orkney in February 1991* was published. This showed that there were similarities with what had happened in Cleveland.

Cleveland

In Cleveland, between February and June 1987, over 100 children were taken into care, most by place of safety orders. They were all referred to social services by two consultant paediatricians and many had been admitted to hospital or into care, under a place of safety order, after Friday afternoon out-patient clinics. In all the cases the paediatricians' concerns related to physical signs in both the genital and anal regions said to be diagnostic of sexual abuse, including the unusual sign of anal dilatation. In very few cases were there any complaints of abuse by the children themselves.

The parents denied the abuse. The police doubted the diagnosis, as did the police surgeon, and there was polarisation between the police siding with the police surgeon and the social workers siding with the two paediatricians. Top management on either side did not even attempt to resolve this polarisation. By June, the parents had formed a group, and had invoked the aid of the local MP. The Press then got the story. The Inquiry into Child Abuse in Cleveland started in August 1987. Side by side with the hearing of the Inquiry, the individual cases of the children were decided by the High Court or magistrates' courts. Sixty-seven children initially became wards of court, of whom 40 remained so, and 53 children went home. The magistrates' courts issued orders in respect of some children, most of whom went home. The result was that about three-quarters of the children went home, but some under supervision of one sort or another.

Orkney

On the island of South Ronaldsay, in 1987, a mother reported her husband to the police for serious

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physical and sexual assaults on some of their children. He was convicted and sentenced to seven years imprisonment. In 1990 seven children of that family were taken into care because of alleged sibling abuse. In their interviews with social workers, those children mentioned the names of other children on the Island, and led the police and the social workers to believe that organised sexual abuse of a ritualistic or satanic nature was occurring. Nine children from four other families were named as taking part in such rituals and alleged perpetrators were identified.

In a coordinated action, the police and social workers visited these families at 7.00 a.m., removed the children from their homes, and took them to the mainland under place of safety orders. At the subsequent Children's Hearing the parents denied the allegations. The cases were therefore referred to the Sheriff's Court, but that hearing was decided on the basis of procedural irregularities. Consequently the children were immediately sent home and the allegations have never been judicially considered and no-one has either been exonerated or found responsible. An Inquiry started in June 1991.

Similarities between Cleveland and Orkney

There are many differences between the two situations, but also a considerable and depressing number of similarities:

- (a) the children were treated as objects of concern, and not as people with their views
- (b) the families were pushed to the outskirts of the problem, and were not treated with proper consideration; they had not been found guilty of anything at that stage
- (c) there was a kneejerk reaction to the problem: sexual abuse was treated as though it were analogous to physical abuse, and the consequences and the next stage were not thought through
- (d) children who did not disclose abuse were persistently interviewed
- (e) there was an absence of line management, and no support of social workers in a stressful situation

- (f) the problems of foster-parents looking after children said to be abused were not recognised
- (g) the social workers refused any contact with families.

It is depressing to realise that all the criticisms made in the Cleveland report had no impact whatsoever in Orkney. One short version of the report was available in the Social Services Department, but it could not be found; it had clearly been unread.

Changes since Cleveland

I received invaluable help from the psychiatrists and paediatricians during my Inquiry. Without their help the Inquiry would have been in great trouble. The two disciplines found the middle ground which was then, and often still is, missing in disputed medical evidence.

Rights under Children Act 1989

- (a) Under section 1 of the Act, courts now have to have regard to the ascertainable wishes and feelings of the child concerned (considered in light of age and understanding).
- (b) There must be reasonable contact with the family (except for a limited period) unless the court orders to the contrary.
- (c) Children may make an application for contact with family under section 34(2).
- (d) Children may apply to discharge a care order, under section 39(1)(b).
- (e) The children may appoint their own lawyers, if they are of sufficient understanding, and wish to do so.
- (f) On application for a child assessment order, the child must be given notice and, if of sufficient understanding to make an informed decision, he/she may refuse to submit to a medical or psychiatric examination or other assessment. This may be contrasted with judicial decisions in respect of cases concerning an anorexic girl and Jehovah's Witness boy, in which the courts imposed orders for the welfare of the child.
- (g) Under emergency protection orders, children may equally refuse medical, psychiatric, or other examination or assessment. In particular they may refuse to be interviewed.

Interviews

The important part played by ill-conducted interviews with children was emphasised in both reports. Lord Clyde was much assisted by expert psychiatric evidence. He divided possible types of interviews

into four. I had suggested three – investigative, assessment, therapeutic. He added 'supportive'.

Whatever are the purposes of interviewing children in connection with abuse, there are a number of important points common to all interviews, made both by Lord Clyde and myself, and indeed by Dr David Jones (1992) in his excellent book on interviewing sexually abused children.

- (a) The purpose of interview must be decided in advance, and the approach adjusted accordingly. This point may seem obvious, but it is widely ignored. There are different techniques for different types of interview, and depending on how many interviews are to be conducted. Proper arrangements need to be made for joint interviewing by different disciplines. More generally, the approach to the whole problem needs to be planned since interviews form only part of the total investigation, which will include seeing other people, the wider family, the school, and so on. If the interview is for ascertaining what happened and it may be used in court, care must be taken over questioning, for example whether some questions are appropriately open-ended. Particular importance is placed on such matters in criminal cases.
- (b) The interviewers must keep an open mind as to whether *anything* has happened; an interview cannot be prejudged to be a disclosure interview. Listen carefully to the child's account, give it weight, but do not necessarily accept it uncritically.
- (c) Allowance must be made for denial of abuse to be true. Some people accept a child's account if he/she discloses abuse, but do not do so if abuse is refuted.
- (d) Organisation must be good. There should be suitable accommodation and suitable interviewer. Any video or audio recordings should be clear. (Some videos cut off people's heads or show someone's back only.) There should be proper security on storing and use of tapes made.

Confidentiality

In the interviewing of children, problems may arise over what they tell you. The interviewer may have a duty to disclose information, but the child also has rights to confidentiality. There is a particular problem where a child wants to confide, but wants no action taken.

Use of medical experts

One by-product of increased awareness of abuse of children is the increased use of the medical profession to support or to undermine any allegations made.

This task is from time to time taken on with great enthusiasm and a degree of partisanship. None of this applies to Orkney, but it applied to a marked degree to Cleveland, in the Inquiry itself, and to the cases of individual children caught up in Cleveland courts. I have seen examples of this in evidence presented before me in the Court of Appeal. In a recent example, the trial judge criticised the medical experts for partisanship. It is generally not true of child psychiatrists. But adult psychiatrists giving evidence about their patients as potential carers of their children are not always all that independent, and often find it difficult to consider the welfare of the child other than in the context of their client.

In child cases, it is very important that the medical experts of any discipline approach their role as primarily assisting the court to decide what are the best interests of the child, and their reports and their oral evidence should always be detached and independent and have the welfare of the child as the paramount consideration.

Ideally the medical expert should be invited by *both* sides to assist the court, or should be involved by the

guardian ad litem of the child. The same principles should apply, however, if the medical expert is called by the local authority or by one of the parents.

Training

There is a great need for training, both in interview techniques and in the importance of interdisciplinary working on sexual abuse. Child psychiatry, as a discipline, will have a particularly important input into the methods of interviewing children, and child psychiatrists are likely to be used increasingly in criminal trials. Joint interviewing between the professions is to be recommended, as there are wide differences of techniques and abilities. There are not sufficient numbers of child psychiatrists to provide a service across the country, but there are enough to train those in the front line of interviewing and to assist in assessing the steps to be taken for the future welfare of the child. There are major training requirements (see Lord Clyde), and the expertise of psychiatrists ought to be harnessed to this very important task.

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