

**A GUIDE**

for

**THE POLICE**

**THE CROWN PROSECUTION SERVICE**

**LOCAL SAFEGUARDING CHILDREN BOARDS**

to assist with

**LIAISON AND THE EXCHANGE OF  
INFORMATION**

when there are simultaneous

**CHAPTER 8 SERIOUS CASE  
REVIEWS AND CRIMINAL  
PROCEEDINGS**



April 2011



## **1 Parties**

*1.1* The parties who may benefit from this guidance document are Local Safeguarding Children Boards (LSCBs), Lawyers from the Crown Prosecution Service (CPS), and Police Officers engaged as part of the Serious Case Review (SCR) process or as investigators in child abuse investigations including homicide.

*1.2* This guidance was completed following recommendations arising out of two Serious Case Reviews, one commissioned in 2009 in Bedfordshire, and another in 2010 in West Mercia. After discussion with the Independent Chair of both LSCBs responsible for taking forward actions arising from each SCR and relevant criminal justice agencies, a multi agency working group was convened to draft this document.

*1.3* The working group comprised the Head of the Public Protection Unit in Bedfordshire Police, the Head of the Public Protection Unit in West Mercia Police, the District Crown Prosecutor Bedfordshire CPS and the Independent Chair of Central Bedfordshire LSCB and Herefordshire LSCB. The guidance has been endorsed by the ACPO Homicide Working Group and the CPS nationally. The guidance was informed by John Fox, independent safeguarding specialist, who completed the Overview Report for both SCRs.

## **2 Aim**

*2.1* The aim of this guidance is to

- Enhance understanding between the Parties about the process of a serious case review and how it may affect the conduct of a criminal investigation/ prosecution.

- Build on the principles contained in Chapter 8 of the Government Guidance *Working Together to Safeguard Children* (2010) by providing a suggested operational framework for requesting a delay in all or part of the SCR Process, or an alteration to the planned activity of the SCR Review Team.
- Provide a suggested framework between the parties for the sharing and exchange of relevant information generated by serious case reviews and a criminal prosecution

*Note: This is not a protocol. The material in this document is not intended to be prescriptive and those using it should tailor it to suit the unique requirements of the situation they are dealing with and the resources that are available to them, whilst having regard at all times to the Criminal Procedure Rules 2010 and their overriding objective that criminal cases be dealt with justly.*

2.2 The parties using this guidance should recognise that both criminal proceedings and serious case reviews are important processes which should be carried out as expeditiously as possible and ideally without one adversely affecting the other. Both processes are crucial to the effective safeguarding of children.

### **3 The legal context**

3.1 Local Safeguarding Children Boards (LSCB) are set up by local authorities in accordance with a requirement in the *Children Act 2004*. They are the key statutory mechanism for agreeing how the relevant organisations will co-operate to safeguard and promote the welfare of children, and for ensuring the effectiveness of what they do. *Section 13 Children Act 2004*, specifies the agencies (such as Police, Health Authorities, etc) which are required to co-operate in the establishment and work of an LSCB.

3.2 The role and function of an LSCB is set out in law by *The Local Safeguarding Children Board Regulations 2006, Statutory Instrument 2006/90*. Regulation 5 requires the LSCB to undertake a SCR when certain criteria are present. Procedures for carrying out SCRs are set out in Chapter 8 of *Working Together to Safeguard Children (2010)*. This document prescribes:

*When a child dies (including death by suspected suicide) **and** abuse or neglect is known or suspected to be a factor in the death, the LSCB should **always** conduct a SCR into the involvement of organisations and professionals in the lives of the child and family.*

*In addition, a SCR should always be carried out when a child dies in custody, either in police custody, on remand or following sentencing, in a Young Offender Institution (YOI), a Secure Training Centre (STC) or secure children's home, or where the child was detained under the Mental Health Act 2005.*

*In addition, LSCBs should consider whether to conduct a SCR whenever a child has been seriously harmed in the following situations:*

- a child sustains a potentially life-threatening injury or serious and permanent impairment of physical and/or mental health and development through abuse or neglect;*
- a child has been seriously harmed as a result of being subjected to sexual abuse;*
- a parent has been murdered and a domestic homicide review is being initiated under the Domestic Violence Crime and Victims Act 2004*
- a child has been seriously harmed following a violent assault perpetrated by another child or an adult;*

*and the case gives rise to concerns about the way in which local professionals and services worked together to safeguard and promote the welfare of children. This includes inter-agency and/or inter-disciplinary working.*

#### **4 The process of a Serious Case Review**

4.1 To help manage every Serious Case Review, a Panel of senior people from within the relevant agencies will be formed. The Panel will read and have access to all material and reports produced by the Review. The Panel should always include a senior police officer, but this officer will not be directly involved in the conduct of any parallel criminal investigation.

4.2 Two safeguarding experts, who are independent of the case, will be appointed to conduct the review and ensure it is robust and transparent, thereby maintaining the confidence of the public and family members. One of these independent people will chair the SCR Panel and the other will analyse agency practice and ultimately provide the Overview Report and recommendations.

4.3 The individual agency reviewers will conduct an Individual Management Review (IMR) within their agency, normally by examining all documentation and interviewing relevant staff. A report, together with recommendations, will be produced by each of these agency reviewers, and this will be part of the material considered by the SCR Panel and will help inform the Overview Report.

4.4 The agency reviewers will usually be senior professionals from within the agency concerned, such as a consultant paediatrician or a police chief inspector. Although in the context of this guidance any interviews with staff take place under the auspices of the SCR, such discussions would be no more or less than one would expect from management in any

organisation where there had been a potential failure to adhere to procedures or good practice This is important to bear in mind when considering a potential request to avoid interviewing certain people.

4.5 The Overview Report, is sent to the Department for Education, scrutinised and evaluated by Ofsted, and published to the public. The main purpose of the whole procedure is to quickly learn lessons, and identify whether there are gaps in the service provided by agencies charged with protecting children, or flaws in practice which could lead to other children being seriously harmed. An Action Plan is prepared which sets stringent timescales for the implementation of recommendations contained in the Overview Report.

4.6 In order to achieve maximum effectiveness in the safeguarding of children, the lessons must be learnt and any necessary changes implemented quickly, and those contributing information to the SCR must feel able to be open and honest about what happened.

## **5 Timescales for a Serious Case Review**

5.1 The statutory guidance described above, prescribes strict timescales within which a Serious Case Review has to be commenced and completed. During their scrutiny, Ofsted are critical when these timescales are not adhered to, and this can have ongoing repercussions for the constituent agencies of the LSCB.

5.2 Although there is scope for extending the timescale in some circumstances, *Working Together to Safeguard Children* (2010) states that SCRs should be completed within six months from the date of the decision to proceed.

5.3 In order to comply with the high standards required by Ofsted, the SCR Review Team will often need to interview a range of professionals

involved in providing a service to the family, as well as the people who had care of the children such as the family and significant others. Some of these people may be potential witnesses or even defendants in a future criminal trial.

5.4 Analysis of the professional practice will be undertaken by senior members of the relevant agencies, and the Independent Overview Report Author will consolidate all the analysis and learning from the review, conduct further analysis if necessary, and write the Overview Report.

5.5 There is a presumption that even when criminal proceedings are ongoing, the work of the Review will go ahead in accordance with the Government timescales unless there are special circumstances which would require some compromise. *Working Together to Safeguard Children* (2010) states:

*In some cases, criminal proceedings may follow the death or serious injury of a child. The Chair of the SCR Panel should discuss with the relevant criminal justice agencies such as the police and the CPS, at an early stage, how the review process should take account of such proceedings. For example, how does this affect timing and the way in which the SCR is conducted (including any interviews of relevant personnel), what is its potential impact on criminal investigations, and who should contribute at what stage?*

*Much useful work to understand and learn from the case can often proceed without risk of contamination of witnesses in criminal proceedings. In some cases it may not be possible to finalise the IMRs and the overview report or to finalise and publish an executive summary until after coronial or criminal proceedings have been concluded, but this should not prevent early lessons learned from being acted upon.*

5.6 It is clear therefore that even when a Criminal Investigation or Prosecution is being considered or is ongoing, the SCR will proceed, but if there are clear reasons put forward by the police or CPS in discussion with the SCR Panel Chair, it may be possible to negotiate a delay in final completion of the SCR, or some restriction of its scope such as consideration being given to not interviewing people who may be witnesses or defendants in criminal proceedings.

5.7 The fact that someone has made a witness statement to the police, or even the fact that someone has been interviewed as a suspect or is charged with an offence, would not, as a matter of course, preclude the SCR Review Team from seeking to obtain from them any learning which could help protect children at the time or in the future. This may involve a personal interview or a request for a contribution to the SCR in writing. However, this guidance suggests that if interviews are conducted with people who may be involved in criminal proceedings the police and CPS must be informed so that they can discharge their disclosure duties (*see Section 7*).

5.8 The Children Act 1989 reinforced the principle that the welfare of children is of paramount consideration. Seeking to delay or restrict the work of a Serious Case Review, and the learning it achieves, should be seen as a grave step which may prejudice the welfare of children.

5.9 There can be occasions however, when the proposed activity carried out in respect of a SCR may compromise a police investigation or criminal prosecution, (which is, in itself, an important process for safeguarding children in the future). Provided the learning obtained by the SCR would not be significantly reduced, every effort should be made to avoid the SCR adversely affecting the criminal case.

5.10 Sometimes a criminal investigation may commence but, because the police are still gathering evidence, it is several weeks or even months



before a suspect is charged. In such cases the CPS may not be actively involved, and any request to restrict the progress of a SCR should be made by the Senior Investigating Officer (SIO) in a meeting with the Chair of the SCR Panel who in turn will consult the police SCR Panel member and the Independent Overview Report Author. If the SCR Panel Chair becomes aware that criminal proceedings are ongoing, yet no contact has been made by the SIO, it might be good practice for the police SCR Panel member to be asked to proactively make contact with the SIO to begin dialogue about how the two processes should take account of each other.

5.11 The reasons why the SIO believes that the proposed timescale and/or activity planned by the SCR Team is likely to compromise the criminal investigation or future prosecution, should also be put in writing in the form of a letter to the SCR Panel Chair. If possible, whether or not anyone has been charged, the CPS should be asked for their view as to whether any potential future prosecution is likely to be adversely affected by the work carried out as part of the SCR.

5.12 In cases where a prosecution has commenced and the CPS are actively involved, the Chief Crown Prosecutor should endorse in writing, any police request to amend the planned activity of a SCR.

5.13 Such a request from either the SIO or CPS should be restricted to named individuals, and specific matters which may have a direct adverse bearing on the criminal case and could include, for example, a request to delay an interview with a named parent until after a bail return date when the police are planning their own further interviews.

5.14 Much useful work to understand and learn from the case can often proceed without risk of contamination of witnesses in criminal proceedings so it is not good practice for example, that the CPS or SIO make a blanket request that *'anyone who may* become a prosecution witness should not

be seen or spoken to by the SCR Team'. Many professionals provide witness statements to the police but often they do not end up giving evidence at court as key witnesses. It could be considered disproportionate to seek to prevent a senior official interviewing a colleague from their own agency with a view to learning lessons about their practice and procedure, unless there was a real risk that their duty as a key prosecution witness could be compromised.

5.15 A sophisticated and measured approach therefore should be taken by the prosecution team, but a reasonable request in writing, with cogent reasons, should be treated favourably by the SCR Panel Chair.

5.16 The Independent Overview Report Author should, in their final Overview Report, make reference to any request for disruption to the planned work of the SCR Team, and include a copy of the written request as an appendix so that Ofsted can clearly understand the reasons why this was considered necessary.

5.17 Ultimately, if agreement and compromise cannot be reached between the SIO, CPS and SCR Panel Chair, the final decision whether or not the activity or timescales of the SCR should be altered, should be made by the Chair of the LSCB. The LSCB Chair will consider the importance of a successful prosecution and also hold a strategic view of safeguarding in their local area, including the need for continued co-operation between agencies once the SCR is concluded. They will also recognise that to overrule the judgement of the SCR Panel, and the two Independent Reviewers, would be an exceptional and serious decision.

## **6 Terms of Reference**

6.1 Every SCR is carried out strictly in accordance with Terms of Reference (ToR). The scope, and relevant time, which the Review will cover, will be set out in these ToR. In any case where a criminal

investigation/prosecution is going to run parallel to a SCR, it will assist the SIO to be made aware of the ToR and if possible have the opportunity to express any views on the content before they are finalised.

6.2 To achieve this, an early action at the commencement of any child homicide investigation should be a request to the police LSCB delegate that they notify the SIO if the LSCB Chair decides to commission a SCR.

6.3 Upon receipt of such notification, the SIO should establish the identity of the police SCR Panel member and make early contact with them to express an interest, and to inform them that a parallel criminal investigation is underway.

6.4 The SIO should ask to meet the SCR Panel Chair before the terms of reference are finalised, in order to make any reasonable representations. Sometimes the ToR may already be agreed before an Independent SCR Panel Chair has been appointed in which case it is important that police are automatically involved via the SCR Panel/standing SCR committee at the drafting stage. A request to change the ToR in any material way should not be made without good reason and, if agreement cannot be reached, the request should be passed to the LSCB Chair who, ideally after consultation with the police/CPS LSCB delegate(s), may make a final decision.

## **7 Disclosure and sharing of material generated by the SCR**

*Note: When involved in any liaison or negotiation concerning the sharing and exchange of information the Parties should have regard to Rule 1.1 of the Criminal Procedure Rules 2010 which sets out the overriding objective that criminal cases be dealt with justly.*

7.1 A Serious Case Review will usually involve the interviewing of staff members as well as significant people who knew the subject child. The

material generated from this activity, including interview notes or the IMR Reports from each contributing agency, may contain information which is of relevance or importance to any parallel criminal proceedings. Paragraph 8.49 of *Working Together to Safeguard Children* (2010) suggests that LSCBs should consider their responsibility to 'provide relevant information to those with a legitimate interest'.

7.2 The Criminal Procedure and Investigations Act 1996 (CPIA), including its accompanying Code of Practice, and the Attorney General's Guidelines on the disclosure of information in criminal proceedings, all govern the disclosure of unused prosecution material to the defence. References to 'unused material' are to material that may be relevant to the investigation that has been retained but does not form part of the case for the prosecution against the accused.

7.3 The Code requires the police to record and retain material, obtained during a criminal investigation, which may be relevant to the investigation. The CPIA defines what is meant by a 'criminal investigation' and a SCR does not fall within the scope of that definition. However, any material generated by a SCR is third party material and police officers and prosecutors must have regard to whether relevant material may exist in relation to other linked investigations or prosecutions. Reasonable enquiries must be carried out by the police to establish whether such material exists and, if so, whether it may be relevant to the criminal prosecution.

7.4 'Relevant material' is defined by the CPIA as anything that appears to an investigator, or the officer in charge of an investigation, or the disclosure officer, to have some bearing on any offence under investigation or any person being investigated or on the surrounding circumstances, unless it is incapable of having any impact on the case.

7.5 Police investigators must alert the Prosecutor to the existence of relevant material that has been retained in the investigation. Revelation of relevant material to the Prosecutor is by means of sensitive and non-sensitive disclosure schedules. Revelation to the Prosecutor does not mean automatic disclosure to the defence, although the existence of non-sensitive material and general nature of it *will* be disclosed to the defence by means of the non-sensitive unused material schedule.

7.6 If material relevant to the investigation comes to the knowledge of the investigator and is then obtained from a third party (such as the LSCB), it will become unused material or information within the terms of the Code. It will have to be recorded on the appropriate schedule and revealed to the prosecutor in the usual way.

7.7 Throughout the proceedings, the prosecution is under a continuing duty to keep under review whether material should be disclosed to the defence. **The CPS should initially treat any SCR material disclosed by the LSCB as sensitive material, and as such it should not appear on any schedule provided to the defence.**

7.8 The prosecution is also under a statutory duty to disclose any material that could reasonably be considered capable of undermining the prosecution case against the accused or of assisting the case for the accused (subject to public interest immunity). This will include any material casting doubt on the reliability of a prosecution witness. If, for example, during the SCR process an Individual Management Review reveals that a professional (who is also a key prosecution witness) has falsified past case records, and part of their criminal case testimony will rely upon the accuracy of their recorded notes, the information obtained for the SCR may cast doubt on their reliability as a witness and it would be unjust for the defence team not to be made aware of this.

7.9 There is a general expectation by Ofsted that parents, carers and significant family members will be interviewed or otherwise engaged during the SCR to seek any learning from them. A failure to do this, without good reason, will undoubtedly attract criticism in the evaluation of the SCR process because there is strong evidence that family members are sometimes able to provide the best insight into the matters with which the SCR is concerned.

7.10 When criminal proceedings are ongoing, the guidance in *Working Together to Safeguard Children* (2010) does recommend discussion about the timing of interviews with 'relevant personnel', and at what stage they might contribute to the SCR process. Although there is a presumption that all relevant people will be engaged at some point, it is likely that an SIO would want to make representations that SCR based interviews with those charged or on bail did not take place until any criminal trial was concluded. In such circumstances, the SIO should write to the SCR Panel Chair setting out the reasons why the interview(s) could compromise criminal proceedings. If the request was agreed, the letter could be included in the Overview Report as supporting evidence to Ofsted that the decision not to seek learning from these people was based on sound reasoning.

7.11 Criminal cases can take a long time to resolve and there may be some circumstances where the LSCB, in carrying out its statutory duty to conduct the SCR, considers it would not be appropriate to wait for months or even years, to gather all possible learning about how best to safeguard children. If, prior to charge or conclusion of a trial, interviews *are* undertaken by those engaged in the SCR with people who are either suspects or have been charged with a criminal offence, the SIO should request that the Disclosure Officer be allowed to view the interview record in case the suspect had made other disclosures or given alternative accounts, as this could potentially be admissible evidence.

7.12 In relation to third party material, the CPIA Code of Practice makes reference - *If the officer in charge of an investigation believes that other persons may be in possession of material that may be relevant to the investigation he should inform them of the existence of the investigation and to invite them to retain the material in case they receive a request for its disclosure. He should inform the prosecutor that they may have such material. However, the officer in charge of an investigation is not required to make speculative enquiries of other persons; there must be some reason to believe that they may have relevant material.*

7.13 Serious Case Reviews primarily focus on the working together arrangements between safeguarding agencies in the months or years before the child was harmed. There is therefore no general requirement for the SIO to write to the LSCB Chair inviting them to retain all material generated by the SCR, and it would be 'speculative' for them to do so without good reason. However, it is likely that some of the material generated will be relevant to the criminal investigation in the sense that it is capable of having some bearing on the offence under investigation, or any person being investigated, or on the surrounding circumstances of the case.

7.14 Where the SIO has genuine reason to believe that the SCR Team is likely to have obtained relevant material during the course of their work he or she should instruct the Disclosure Officer to write to the LSCB Chair informing them of the criminal investigation and inviting them to retain the material concerned. This presupposes that the SIO has taken proactive steps to establish that a SCR is taking place (see 6.2 above).

7.15 A SCR will generate many hundreds of pages of documents and it is unreasonable and disproportionate for a blanket request to be made covering all the material, so the letter should stipulate the particular material, or type of material, which the SIO believes may be of relevance to the investigation.

7.16 Although the SCR is a confidential process, the LSCB Chair should, after consultation with the SCR Panel Chair and the police LSCB and SCR Panel members, treat favourably any request by the SIO for them or their Disclosure Officer to view the material which it is felt *may* be of relevance, so that an informed judgement on its *actual* relevance can be made. This could include for example, the Disclosure Officer attending the LSCB Business Office to read the section of an IMR Report which deals with the work of a particular professional who is also a prosecution witness. Should the Disclosure Officer feel that the material is indeed relevant to the criminal investigation, they will inform the CPS of its existence. The CPS should treat all material disclosed by the LSCB as sensitive material.

7.17 If the request to view the SCR generated material is refused, the CPS will be informed, and they will liaise with the LSCB Chair and may, if necessary, consider a witness summons.

7.18 Where any SCR material reviewed by the CPS falls within the statutory disclosure tests under the CPIA, the CPS should write to the LSCB Chair setting out the reasons why the material falls to be disclosed and informing them of that decision. Upon receipt of that notification, the LSCB Chair, having consulted the SCR Panel Chair, should be given an opportunity to make any representations in writing to the CPS on the issues of disclosure. The CPS should not disclose any material to the defence unless by agreement with the LSCB Chair or by order of the court following a public interest immunity application.

7.19 Before the LSCB Chair makes any agreement with the CPS about disclosure of SCR based material to the defence, they should also take into account the views of any specific agency which may be affected by such a decision. If for example, part of a School's IMR Report was under consideration for disclosure, the SCR Panel member representing Education should be given time to consider the implications and consult



senior colleagues if necessary. Consideration needs to be given to who actually 'owns' the material (the agency concerned or the LSCB).

7.20 If the LSCB Chair agrees with the CPS to disclose to the defence material identified by the CPS which falls within the statutory disclosure test under the CPIA, the CPS will disclose the material to the defence.

7.21 If the LSCB asserts public interest immunity and objects to disclosure to the defence, the CPS will make a public interest immunity application to the court as soon as reasonably practical. The CPS should notify the LSCB Chair of the date and venue of the public interest immunity application and inform them of their rights to make legal representation to the court. The LSCB Chair should immediately inform the LSCB legal advisors or Local Authority legal services branch who can then liaise with the CPS about the PII proceedings.

7.22 Public interest immunity (PII) enables the courts to reconcile two conflicting public interests – the public interest in the fair administration of justice and the need to maintain confidentiality of information, the disclosure of which would be damaging to the public interest. It is undoubtedly in the public interest that SCRs are undertaken, and the learning achieved largely depends upon the willingness of front line professionals to be frank and open. A level of confidence that the information they give will not normally be used for other purposes without their permission is therefore crucial. PII is an exception to the general rule that all material which falls within the test for disclosure must be disclosed. Special care needs to be taken in deciding where the balance lies between the two competing public interests.

7.23 If a refusal is made by the LSCB Chair for the Disclosure Officer to read the material in question (see 7.16 above), then the CPS should be informed by the police of their belief that the LSCB may be in possession of relevant third party material.

7.24 Where it appears to the Prosecutor that the LSCB has material that may be relevant to an issue in the case, the Prosecutor should liaise with the LSCB Chair to discuss the nature of the prosecution case and the reasons why access to the material is sought. If, having received a request from the Disclosure Officer or Prosecutor, the LSCB Chair declines to co-operate, the Prosecutor will consider whether to make an application for a witness summons.

7.25 It must be recognised that the police SCR Panel member is not part of the criminal investigation team. Neither can it be expected that their depth of knowledge of the criminal case will naturally make them aware when a matter is relevant to the criminal investigation. Despite the fact that the police SCR Panel member may have access to all IMR reports and other material generated by the SCR, the material itself remains third party material. The police SCR Panel member is bound by the same terms of confidentiality to the LSCB as all other Panel members, but they must comply with the law and it would be impossible for a police officer to ignore Rule 1.1 of the Criminal Procedure Rules 2010 (see note above). Therefore if the police SCR Panel member believes that a miscarriage of justice might occur if certain material was not revealed to the CPS, they must act to prevent it. In most cases relationships will have been developed with LSCBs and constituent agencies such that they trust the police and CPS to manage unused material in a fair and professional way and therefore the police SCR Panel member should first seek the agreement of the SCR Panel Chair to inform the SIO so that the Disclosure Officer can view the material in question (see para 7.15 above). If this is refused, they should inform their Assistant Chief Constable of their concerns who will consider the strategic need to promote harmony between the police and other agencies, whilst ensuring the law is complied with. To avoid any misunderstanding occurring in the first place, LSCB standing procedures drawn up for the conduct of SCRs should be clear what the CPIA rules are, and what duties a police SCR

Panel member has regarding any information in their possession or that they think might exist in another agency.

## **8 Material from police investigation supplied to SCR**

8.1 A police investigation, particularly concerning homicide, will be extremely thorough and this will result in the gathering of a great deal of material. Some of this material may be of value to those seeking to learn lessons about how the child was maltreated or how agencies could have better worked together to prevent maltreatment.

8.2 The police investigation for example, may identify individuals who, whilst not otherwise known to the agencies (such as 'anonymous' referrers of child abuse), may be able to contribute to the learning contained within the SCR. Witness statements from neighbours and family may make reference to how the agencies provided services to the child in the weeks leading up to the death, or a statement from a doctor may be useful to establish how long before a child's death certain injuries occurred.

8.3 There is a general rule that when third parties request information which is gathered by the police investigation, it will not be usual to disclose material until the criminal proceedings have been completed. This is to ensure that the criminal trial process and any continuing police enquiries are not prejudiced. The comments of Lord Reid in (*Conway -v- Rimmer* (1968) 1 All ER 874) at page 889 are relevant, "*...it would generally be wrong to require disclosure in a civil case of anything which might be material in a pending prosecution, but after a verdict has been given, or it has been decided to take no proceedings, there is not the same need for secrecy.*"

8.4 Strictly speaking, witness statements are given by witnesses to support a police investigation and the statements should not be used for

other purposes unless the individual witnesses have consented to this. After the trial/inquest process there is normally no problem with the witness statements being shared openly as the general information has been released to open court. However, because of the overriding interest in the welfare of children it may not always be appropriate to delay information sharing with a SCR until the criminal proceedings are complete because lessons need to be learnt **immediately** in order to better protect children who may currently be at risk.

8.5 If a decision is made to disclose material which is to be used in a criminal case before the conclusion of the criminal proceedings before the Crown Court, there should be no disclosure without informing the Chief Clerk at the Crown Court. Requests for disclosure prior to CPS involvement with the case, or where advice has been sought but no charges brought, should be dealt with by the SIO.

8.6 If criminal proceedings are underway (i.e. when someone has been charged with an offence), the CPS should be consulted and hold a conference with the SIO and SCR Panel Chair to discuss what can safely be disclosed to serve the purposes of the SCR, without hindering the criminal investigation. Where the CPS is merely advising on proceedings, or proceedings have concluded, requests can often be directed to the police but a view from the CPS may still be helpful.

8.7 At the meeting with the SIO to share the Terms of Reference (see paragraph 6.4 above), the SCR Panel Chair could also ask the SIO to consider how any material gathered during the criminal investigation might assist the learning obtained by the SCR. By knowing the scope and aims of the SCR at an early stage, the SIO may recognise when they have information which may be of relevance and importance in the context of helping to understand how agencies failed to work together to protect the child victim.

8.8 There will also be occasions when the SCR Team themselves believe the police may have specific material which could assist their work, and in such cases the police SCR Panel member could be asked to approach the SIO with a view to examining such material to discover if it may help the SCR learn lessons.

8.9 Such requests to the SIO must be scrutinised by the SCR Panel Chair to ensure that the requested material is genuinely relevant to the SCR and that the SCR Panel is not conducting a "fishing" exercise.

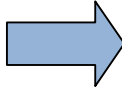
8.10 Even when criminal proceedings have been concluded, wherever possible, attempts should be made to obtain the consent of the maker of any witness statement to its disclosure in connection with the SCR. If consent is not forthcoming, disclosure may still be made (although not before informing the Chief Clerk at the Crown Court) and the witness should be advised by the police of that fact and the reasons for it.

## **9 Conclusion**

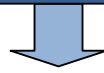
9.1 It is possible to manage SCRs and criminal proceedings simultaneously, without one jeopardising the other. In their own way, both processes are important to safeguard and promote the welfare of children, which should always remain the primary consideration.

9.2 The learning obtained by a SCR is largely dependent on the willingness of individual professionals and family members to engage in the process. They need to have confidence that any information they give will be treated with respect, and they should be made aware if it could be used for any purpose other than that for which it was intended.

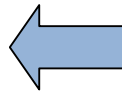
Police commence serious child abuse investigation



SIO makes early contact with Police LSCB Delegate to request notification if SCR is commissioned



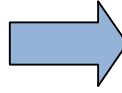
SCR Panel Chair requests that SIO considers sharing material generated during the investigation which may contribute to the SCR learning



Upon receipt of such notification, SIO seeks meeting with SCR Panel Chair to discuss SCR Terms of Reference. If a suspect is charged, SIO to notify CPS that SCR is also in progress



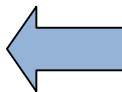
Any request from SIO or CPS to alter the timescale or proposed activity of the SCR to be made in writing and be for good reasons. LSCB Chair will make final decision if there is a dispute.



If SIO has genuine reason to believe that SCR may hold material 'relevant' to the prosecution, a request is made for the Disclosure Officer to view that material.



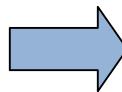
If viewing is refused, CPS to be informed by the SIO of the existence of potentially relevant material. CPS will liaise with LSCB Chair and arrange witness summons if necessary.



If this is agreed, and the Disclosure Officer deems the material relevant, the SIO informs the CPS of the existence of the third party material.



If SCR believes police investigation may hold valuable learning material, Police SCR Panel member should ask to view it and request that SIO shares it if possible.



If prosecution has commenced, the CPS should hold a conference with SCR and SIO to discuss any implications of sharing material generated by investigation.