The Use of Clinical Evidence

DISCUSSION GROUP H

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Clinical evidence, in the context of this discussion, refers to the information that is able to be gathered by clinical methods. These methods include such techniques as interview, psychological testing and physical examination.

For the proper documentation of a suspected case of child maltreatment, the gathering, recording and reporting of clinical evidence is an essential part of the process of assessment.

Traditionally, physical maltreatment was the main type of abuse investigated. The result of the clinical examination of a suspected victim of physical abuse was a critical part of the evidence available to child protection agencies for presentation in court. Frequently no other clinical information was sought, for example physically maltreated children were not often interviewed.

As sexual maltreatment has become more frequently reported a much greater reliance has had to be placed on other aspects of the clinical evidence, particularly interviews conducted with the suspected child victim.

The 'clinical interview', carried out with children who are suspected victims of maltreatment, does not have the same evidentiary value as a physical examination which may confirm that maltreatment has occurred. With suspected victims of sexual maltreatment the physical examination is not often abnormal, and therefore may not be useful as court evidence.

As a general and guiding principle any child suspected of being a victim of maltreatment should be assessed from three broad perspectives, if at all possible:

- the account that the child gives of the allegations of maltreatment;
- the accounts available from other individuals who may have information relevant to the suspected maltreatment of the child; and
- the results of a physical examination of the child.

Generally speaking, some information is available in each of these areas and it is important that proper emphasis is given to each facet in the investigation of every case of suspected child maltreatment, whatever the type. Such an investigation is the best way of producing information which is able to be used in the initiation of legal proceedings for the protection of child victims or the prosecution of suspected perpetrators of maltreatment.

There is considerable controversy surrounding the interview of young, suspected victims of child maltreatment. The debate centres around such aspects of the interview as: the reliability of children's memory, the suggestibility of children, and children's tendency to fantasise. Any interview with a child should be conducted by an experienced person using
an interview which follows a standard format and contains for example, inbuilt checks of the child's memory and reliability. Those interviewing children should only report factual material gained from the interview. For the purpose of court proceedings speculative interpretations or opinions which are presented as facts are not acceptable and form the basis for many of the problems which have previously been put forward as limitations of interviews.

The traditional physical examination of children suspected of being victims of physical maltreatment is well established. However, it could be developed further by the careful study of various patterns of non-accidental injury, particularly burns, the healing rate of various injuries and the changing appearance of various non-accidental injuries over time.

Much clarification of the physical concomitants of sexual maltreatment is necessary. It is unlikely that physical abnormalities, the result of sexual interference, are present in more than 10-20 per cent of victims of sexual interference. Generally speaking, by the time the average suspected child victim is examined there is nothing specific found. To help in the clarification of what minor changes may result from sexual interference careful documentation of the changes seen in those children who are able to be examined soon after interference has taken place should be made. If possible, examination of these children again, as the physical signs change and any injuries present heal, will further provide useful information about the physical changes to be expected with sexually abused children. Adequate recording of the examination findings by contemporaneous notes and clinical photographs of the genitalia of suspected victims should always be undertaken.

The group discussion was limited to the clinical evidence that might be available from children who had either alleged maltreatment or who were suspected of being victims of maltreatment. Practically speaking, most consideration was given to issues of evidence related to actual maltreatment.

Because of the size of the group it was divided in half. The two sub-groups discussed the same three questions for the first hour. For the remaining half-hour the views of the two groups were brought together.

What is Clinical Evidence?

Ultimately, what is evidence is defined by the court. Ideally 'evidence' in the context of the framework of child maltreatment should include: the child's story of maltreatment; the physical evidence of maltreatment; and the psychological and behavioural evidence of maltreatment.

Clinical material should only be considered as possible evidence if it is collected in an appropriate clinical environment by appropriately trained and experienced clinicians.

More than one clinician may be involved in the collection of clinical material. To ensure the best possible return of suitable material, close liaison must take place between those involved in the gathering of the information. For instance, the clinician performing the physical examination needs to discuss the nature of the child's story with the professional who obtained the child's story of actual maltreatment.

What Factors influence the Reliability of Clinical Evidence?

Reliability can be maintained if:

• only trained and experienced people gather information from the child;
• assessors adopt an objective approach to the gathering of evidence, thus ensuring that validity and credibility testing of a child's allegations can be ascertained from the interview procedure;
• appropriate means for recording a child's story (video recording of interviews should be considered suitable) and the tests of credibility and reliability are used;
• the multi-disciplinary approach to gathering evidence should be used.

How and by whom should Clinical Evidence be collected and presented?

Clinical evidence should be collected and presented by appropriately trained and experienced professionals. Those who give evidence should expect to have to justify the accounts of the child's story they give ensuring that the interview addresses the credibility and reliability of the child's story. This is best done by the incorporation into the interview of internal checks, as well as demonstrating the consistency and reproducibility of the child's allegation.