

GENERAL MEDICAL COUNCIL

PROFESSIONAL CONDUCT COMMITTEE

Friday 5 September 2003

44 Hallam Street, London W1

Chairman – Professor Peter Richards

Panel Members:

Dr Nihal Gunasekera
Mr Neville Harrison
Mrs Muktesh Kakar
Dr Charles Winstanley

Legal Assessor: Mr Douglas Readings

Case of:

EASTGATE, John William

(DAY FIVE – PM PROCEEDINGS)

MISS JOANNA GLYNN QC, and MR A HURST, instructed by Messrs Withers,
solicitors, appeared on behalf of the Complainant.

MR JAMES TURNER, of counsel, instructed by Messrs RadcliffesLeBrasseur,
solicitors, appeared on behalf of Dr Eastgate, who was present.

(Transcript of the shorthand notes of T. A. Reed & Co
Tel No: 01992 465900)

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A MR TURNER: I will call Arnon Bentovim.

THE CHAIRMAN: Is there a report, Mr Turner?

MR TURNER: There is no report but Dr Bentovim will essentially be speaking to the same report as Dr Hall.

B MR ARNON BENTOVIM, Affirmed

THE CHAIRMAN: Dr Bentovim, I am the Chairman of the Committee. My understanding is that you are appearing before us as an expert witness, is that correct?

A Yes, that is so.

Q Have you prepared a report of the Committee?

C A I have not because a decision was taken to involve me at very short notice. I have unfortunately been at a most important conference concerning Climbie matters for the last three days and have not been in my office at any time and there has been no opportunity to do so. So, I have acquainted myself with the material and I hope that I can be of assistance. I apologise; there has been no opportunity to prepare a report.

D THE CHAIRMAN: The Committee are grateful to you for coming to help them determine the facts. I imagine that you are familiar with the GMC and the way it works in the sense that the Committee are made up partly of registered medical practitioners and partly members of the public who are not doctors and you have lawyers on your left and right who will become apparent to you as matters proceed.

Examined by MR TURNER

E Q Would you give the Committee your full name and professional address.

A My name is Arnon Bentovim and my professional address is 97 Harley Street.

Q And your occupation?

A I am a consultant child and adolescent psychiatrist.

F Q And your qualifications?

A I am a bachelor of medicine and surgery, a fellow of the Royal College of Psychiatrists and of the Royal College of Paediatrics and Child Health. I am an associate member of the British Psychoanalytic Society and I hold the academic diploma in psychological medicine from the University of London.

Q Do you hold any particular appointments at the moment?

G A I am an honorary consultant at Great Ormond Street and the Tavistock Clinic and I am also an honorary senior lecturer at the Institute of Child Health, University College.

Q Do you have a particular interest in and experience of the investigation, diagnosis and treatment of sexual abuse in children?

H A Yes, I do. I, together with colleagues, established the first European unit for the assessment and treatment of children who are sexually abused at Great Ormond

A Street following on my role. I was appointed at Great Ormond Street in 1968 and that was the time when concern about child abuse was becoming evident in professional circles in this country. I was asked whether I would be prepared to become responsible for matters concerning child abuse at Great Ormond Street, which I continued to do until I left Great Ormond Street to set up an independent service in 1994.

B In that role, we were concerned with both therapeutic work and of course the assessment of children who are sexually abused. That was a position in the late 1970s, I guess, where it became evident to us from international concerns that although we were familiar with children who were seriously physically abused, we were being informed by colleagues internationally that there was a major concern about children who were sexually abused that was not being recognised, mainly of course because sexual abuse occurs in the context of silence and children were very reluctant to speak of such experiences. So, we began a process of beginning to make assessments of children who had worry symptoms; we began to develop a treatment service and we began to attempt to think about policy in respect of children who were presenting with symptoms which could be related to sexual abuse; we began to train people throughout the country; the Department of Health funded us to train professionals and also to describe the children and families we were seeing and to look at our therapeutic approach.

D Q If I can just stop you there, doctor, you told us about starting off with a therapeutic approach and I should tell you that the Committee know something about your professional history and experience because we have had the advantage of looking at a case decided pre-Cleveland by Mr Justice Waite, as he then was, when there was a difference in view being put forward on one side by you, I think, and on the other by Dr Boothroyd-Brookes at the time and you had invited Mr Justice Waite to arbitrate on that and he side-stepped making an ultimate decision and the Committee will have seen that and the Committee will have also seen, because they have passages from the Cleveland inquiry report before them, that you had involvement in the Cleveland report.

A Yes.

F Q Has the field of child abuse, investigation and treatment remained static over the last 20 years?

A No, it has been one of the areas of very considerable growth, considerable research, continuing controversy inevitably and areas of concern have been brought up and I think that gradually there has been a process of refining the way we speak to children, the way we try to help children who still remain silent to be able to share their experiences and, certainly most recently, I had the privilege of being asked by the Department of Health to be on the working party that developed a recent publication by Dr David Jones, whose work I know has been quoted, that was published in July of this year by Gaskell Press and the Royal College of Psychiatrists called *Interviewing Vulnerable Children* which gathers together a great deal of international research and where he gives advice about issues of assessment of children and interviewing.

H Q So, clearly you have considerable experience as a clinician in the therapeutic context.

A A Yes.

Q What about your experience in relation to the litigation side of things?

B A Like most of my colleagues I think, my major area of litigation has been within the family law proceedings. On very few occasions, I have been involved in criminal investigations and I have been very concerned about the whole issue of *Memoranda of Good Practice*, but my major field of litigation where I have been concerned is within the family law proceedings and of course, in that context, I have seen many children, carried out investigations of many children, examined the video tapes and assessments of many children and indeed, over the last 12 months, Professor Zeitlin and I have both, for instance, been asked to look at a series of 40 sets of case notes concerning a whole series of children who have been abused. So, I continue to be very actively involved in the issue of diagnosis and approaches to assessing children who may have been abused sexually.

C Q Looking at the case notes for what purpose, in the case that you are talking about, the matter that you and Professor Zeitlin have both been involved in?

A To determine whether the concerns that the children had been sexually abused were well founded or not.

D Q In the past when complicated issues concerning children arose in the family courts, the High Court would sometimes invite the Official Solicitor to provide independent assistance. I say "in the past" because it is a role that has now been taken over by a new organisation called CAFCASS Legal.

A Yes.

E Q Is it right that in such cases the Official Solicitor would sometimes think it necessary to appoint and instruct an expert child psychiatrist?

A Yes.

Q Have you ever performed that role on behalf of the Official Solicitor?

F A Yes, I have played that part. I have been instructed by the Official Solicitor on many occasions and I continue to be instructed by guardians, as all of us who provide expert witnesses are. The most usual way in which we are now asked to assist the courts is being instructed by the guardian from the CAFCASS service that has taken over from the Official Solicitor or been brought together.

Q CAFCASS, Child and Family Support Service? Something like that, is it not?

A Yes.

G THE CHAIRMAN: Mr Turner, I think the Committee are well acquainted with the reputation and expertise of this witness. I hope you will soon move on.

MR TURNER: I certainly shall.

Q In acting in the roles you have told us about in the past, have you ever had cause to have to consider whether criticism can properly be made of the actions, inactions or reports of other professionals in the field?

H A I think the issue of criticism of our work, of other professionals, of ourselves, is an issue which is a constant one. If we are to remain alive to the question of the

A quality of our work in this extremely difficult field, we must be thinking constantly about our practice.

THE LEGAL ASSESSOR: In short, the answer is “Yes”, Mr Bentovim?

THE WITNESS: Yes.

B THE LEGAL ASSESSOR: I wonder, in view of the fact that you are the second witness called to give the same evidence, whether it is necessary for you to expand on your answers and whether you could keep them fairly brief for the benefit of the Committee?

THE WITNESS: I shall attempt to do so, and thank you for helping me if I perhaps repeat matters which have been stated by a previous witness.

C THE LEGAL ASSESSOR: The best thing to do is just to listen to the question and answer it. You have done that many times before, I am sure.

MR TURNER: Does the critic who comes to a case to assess the role of another professional have any advantages, in your opinion, over that initial clinician or expert?

D A He has both advantages and disadvantages, in my view. He has advantages, I think, particularly in the field of investigative interviews where there are video tapes and where the responses of the child and the interviewer can be assessed.

Q What about in this sort of case that we are concerned with?

E A I think that in the sort of case we are concerned with an expert coming in after the fact has considerable difficulties because he is being asked to look at records which are being kept in the process of therapeutic work, which are not specifically designed to be records to be taken to be looked at in a context such as this or within the court. Obviously, in the case which is of concern here, the issue was: would this clearly competent young person of 13, high intelligent, very thoughtful and anxious, wish to make the sort of statement which would be on a video, which of course then could be looked at very critically in terms of the way in which she spoke, the way in which the interviewer carried out the process? The work that the critic is being asked to look at is to look at a therapeutic process of work, quite different from the advantage of a critic who is asked to look at video-taped material as in the series of cases that Professor Zeitlin looked at where we had the advantage of video material, complex assessments, which we could look at and be there because the material was there before us.

F Q You have spoken about the therapeutic context and you have spoken about *Memorandum of Good Practice* formal video interviews. Are there any other distinctions that you would draw between the therapeutic session with a child and a formal *Memorandum of Good Practice* type interview?

G A I think it depends to some extent on the age and developmental stage of the child. So many of the guidelines which are to help professionals are to do with assessment of very young children who are susceptible to suggestion. When we are talking about a young adolescent, we are talking about somebody whose capacities in many instances may be better than ours in terms of memory, grasp and understanding.

A I think there is a major distinction between investigative and therapeutic interviews with younger children and with older where issues concerning possible abuse arise.

Q Do the two approaches, the therapeutic and the investigative process, have the same end purpose?

A No.

B Q What is the purpose of the therapeutic session?

A The therapeutic session is basically to help a young person in very considerable distress who is in hospital because they are self-harming or because they are seriously depressed. The aim is to relieve suffering, in short, whereas of course the investigative interview is to provide the child or young persons with an opportunity of making a statement about experiences which may have been deleterious to that individual. The investigative interview is entirely focused to help the child or young person tell their story. Therapeutic is about helping to change and relieve suffering.

C

THE LEGAL ASSESSOR: I am sorry to interrupt again, but I wonder whether this witness has had the opportunity to read the transcript of the evidence that has already been given in this case? What he has just said differs in no way from what everybody has already said several times over in this case and which is unchallenged.

D

MR TURNER: I think, Doctor, as an expert, you were involved at one stage in this matter?

A I was.

Q I am not going to go into the details of your involvement save to say that it followed a second referral, not the referral we are looking at but a referral to the child protection team in relation to subsequent allegations of abuse made by Miss A?

E

A Yes.

Q I think that in that context the child protection team decided that further inquiries should be carried out. After further inquiries, there were care proceedings instituted and you were the expert who was instructed by the guardian *ad litem* who acted for Miss A herself?

F

A Exactly.

Q The matter went to the High Court but in the event it was decided that it could properly be dealt with without a decision actually being made on whether Miss A had been abused and if so by whoever?

A Yes; and, of course, that was the way that matters proceeded. This has meant that, instead of the allegations which were made which this tribunal is looking at being put in the context of the total case, they are having to be taken out of context. Obviously, if the matter had been fully heard, then the issues of concern today would of course have been dealt with as part of the total picture, as they inevitably would need to have done.

G

Q They would have been part of the background against which the more recent allegations would have been set?

H

A A Of course; and it may well be that concerns would be raised about matters which are being discussed here at that time or not and would have been resolved as part of the total picture.

Q Are they the sort of matters which are conventionally considered by the High Court in these sorts of cases?

A Absolutely.

B MR TURNER: Questions about whether interviewing techniques were appropriate or leading?

THE LEGAL ASSESSOR: Mr Turner, what is the relevance of this line of questioning?

C MR TURNER: The relevance is to put before the Committee the words of this expert on the matter in order to try to assist the Committee to understand precisely how these procedures are gone through.

THE LEGAL ASSESSOR: Would it perhaps be a good idea to refer him to the appropriate paragraphs of Dr Hall's statement so that he can comment on whether he supports or does not support them?

D MR TURNER: That is certainly something I am going to move to in a very few moments, if I may.

THE WITNESS: I think the point which I feel is important – it may have been made by others, so I am sorry to repeat it – is that every single day those of us who carry out assessments of children and young people are questioned about whether what we are doing is leading, appropriate, not appropriate, and whether we have influenced the child. These are the daily issues which come up for those of us going to court on these matters. It is an issue which is constantly raised. I think that is the important thing.

F MR TURNER: I raised that because it goes to the concept of seriousness of the allegation and whether these are really matters that do arise all the time or whether this is a one-off case where exceptionally one may have cause to question the interviewing and therapeutic techniques or otherwise of a particular doctor.

THE CHAIRMAN: I think it has been made very clear to the Committee that this is something that happens all the time and that that is why guidelines have been written.

G MR TURNER: In that case, sir, I shall certainly move on.

Q As part of your investigations at that time, did you have cause to consider the notes and hospital records relating to the present matter?

A Yes. When we carried out our assessment we had a very considerable degree of co-operation from Dr Eastgate and the whole of the team. We had access to all records. We met with all the relevant professionals. We also saw the notes. Indeed, one of the areas we looked at was to try to understand, in the light of what occurred subsequently, exactly how the allegations which are obviously the source of concern

A here fitted into the total picture. So of course we saw all notes and records to help us put matters into perspective.

Q In relation to the present proceedings, I believe that you have seen the Committee bundle of documentation which contains the extracts from the hospital records?

B A Yes, I have. For what it is worth, I think what we said in our original report was that we felt that the documentation, the material ---

THE LEGAL ASSESSOR: Should he be referring to his original report, Mr Turner?

MR TURNER: It is a question of what they were saying about this material.

C THE WITNESS: It is relevant to this. The point I wish to make is that we noted how excellent all the material-recording was, and this was totally irrespective of knowing that this particular hearing would come up. So in general we noted a very high standard of practice.

MR TURNER: In relation to the proceedings that have gone on here so far, have you seen a transcript of the evidence given yesterday by Dr Eastgate?

D A Yes.

Q Have you any social connections with Dr Eastgate?

A No. Obviously, Dr Eastgate is a former trainee. I felt privileged that, knowing my work as well as he must have done, he was happy for me to be approached by the guardian to offer a second opinion here about the needs of this young person. I meet Dr Eastgate from time to time professionally but I do not have a social relationship with him.

E Q Have you also seen a transcript of the oral evidence that has been given to this Committee by Professor Zeitlin?

A Yes, I have.

Q You clearly know Professor Zeitlin?

F A Very well.

Q You have mentioned working with him already.

A Yes, of course.

Q Do you and Professor Zeitlin always agree in your professional judgments?

G A Of course we do not. In the cases that we both recently saw, we were in absolute agreement on a number of the concerns; we disagreed about some areas, not others. Obviously, I read Professor Zeitlin's evidence. Obviously, I know and have been very well acquainted with his views in the early days and his role. Obviously, a process of debate, of looking at differences, is the way in which we make progress.

Q In general terms, first of all, do you agree with the various criticisms that Professor Zeitlin has made of Dr Eastgate in the present case?

H A I do not.

- A Q Have you had the advantage also of reading a report prepared by Dr Alyson Hall?
A Yes, I have.
- Q Again taking it in general terms, do you agree or disagree with the views expressed in that report by Dr Hall?
A I agree with the views expressed by Dr Hall in that report.
- B Q Let me ask you about a different matter before I go to the detail of the heads of charge. You have seen, no doubt, from reading the transcript that Professor Zeitlin has seen the child for the purpose of preparing his report and evidence to the court?
A Yes.
- Q Do you consider that that was a step that was necessary?
C A I have read his justification for doing so and I can understand what he was saying. I would have thought that, given the focus which has emerged in this particular case, that probably would not be particularly contributory.
- Q Would there be any potential dangers inherent in that course?
A Obviously, the problem here is to manage to remain objective. Clearly, whether one likes it or not, one always has to examine whether one is being
D influenced by the people we talk to or we do not talk to. Obviously, I must be influenced by the fact that I met the young person concerned and all Dr Eastgate's team, but the parents did not actually wish to meet me, which was their right. I must have some influence from what I have read and what I have seen and it is my job, as an expert, to try to have a debate with myself about these various biases and influences to try to be as objective as I possibly can.
- Q You will have seen from your perusal of the transcript of the evidence of Professor Zeitlin the importance that Professor Zeitlin attached to various aspects of the guidance that is given in the various documents in the literature bundle, which I know you have also been provided with.
E A Yes.
- Q What do you say about the status of those various documents and the guidance they set out?
F A Obviously, the guidance and the documents have played a very important role in shaping professional practice. Clearly, the guidelines change. Now Dr Jones has produced a review of all the evidence, there may well be a feedback into a future memorandum of good practice; guidelines may change. He has made suggestions about how one should approach children and young people who, for instance, find it very hard to speak: what sort of probes are appropriate or not. The guidelines
G change. The key issue, in my view, is that the guidelines are of value. But all the time we are having to exercise professional judgment about what is appropriate or not in this situation. Just to give a very brief example – excuse me if I divert but I think it may help – we carried out an assessment in the *Memorandum of Good Practice* with a child who would not speak. She had very serious injuries. We used various methods which we talked about which in the subsequent court case led us to be very seriously criticised. The judge upheld what we did in this case because it was
H professionally necessary to assist the child. What I am saying is that the guidelines

A are of considerable value but we are always exercising professional judgments about how they apply in this situation and in this case.

Q Are, for example, leading questions forbidden completely, in your view?

B A They cannot be. One of the issues we established is: do they give rise to information which clearly is not contained in the questions themselves. Nobody would doubt, and I have said this and all the research indicates it, that if a free statement is made with minimal prompting, this is valuable; this gives far more in the way of belief that the child is reporting his or her experiences. But there are situations when we need to give prompts. It seems to me that this is currently advised. The question is to examine as clearly as one can the consequences of however one carries out one's assessments.

C Q Are there clear rights and wrongs in relation to any decision that has to be taken in the management of an individual case?

D A These are such complex matters that there may well be very considerable differences of emphasis about what is an appropriate approach to take or not. What is important in this case, in my view, is that we are dealing with a competent, highly intelligent young person, who was very aware of the situation she was in and the consequences of what she was saying, both at that time and subsequently. The fact that she decided that she did not wish to make a statement to the context where these issues would be examined forensically is important.

Q Let me take you to the heads of charge themselves. Have you got a copy of the heads of charge?

A Yes, I have.

E Q We are concerned, first, with head of charge 3. The first two are merely uncontentious factual recitals. Head of charge number 3, and I want to take this quite quickly with you because you have already adopted, as it were, Professor Hall's views on the matter, refers to the first session which Dr Eastgate held with the relevant child on 9 July.

A Yes.

F Q In essence, the criticism there is that Dr Eastgate was inappropriately leading the young lady into the disclosures that came later on during that day in the second session. Would you please open up the Committee bundle, at tab 2, page 7. You have seen this document before, I take it?

A Yes.

G Q This is the final note that Dr Eastgate had kept in relation to this particular session. The criticism of him begins really towards the end of the second paragraph of that, and it is said that there was inappropriate questioning in the sense that Dr Eastgate implied that the problem lay with someone in London that was causing concern to the young lady.

H A Obviously I have had the advantage of seeing the transcript of Dr Eastgate's own evidence, but in general terms I would not see that as inappropriately leading. I see it as providing a probe to help to see whether she was able to respond to clarify and amplify the issues of feeling left out.

A Q Dr Eastgate asks a number of questions and gives a number of options and, no it was not, comes to all of them, and then London is given as an option and silence.

A Yes.

Q Was it responsible of Dr Eastgate, as he put it yesterday, to wonder whether then the problem lay with someone in London?

A Of course it was reasonable.

B

Q And he goes on to consider with her whether it is someone involved in the medical world. We know that it was common ground that this young lady had had difficulties with doctors in the past, communication with doctors.

A Yes.

C

Q In that context, does that questioning seem to you to be suggesting answers or leading inappropriately?

A It would be entirely appropriate to probe this young person's experiences of let-down when the psychiatrist has some knowledge or awareness that there is a feeling that there may be an ambivalent or negative feeling expressed towards a doctor with whom she had had contact.

D

Q Do you have any impression there of the doctor sensing the potential for sex abuse at this stage in these sessions?

A No.

Q It goes on there to ask when she first felt uncomfortable; we find that the interview comes to an end then because she is not willing to talk further about it. Had you been the therapist/clinician at that stage, would you have wanted to leave it to the next week to talk further about the matter or not?

E

A No, I feel that I would be different, clearly, if one was not concerned about the mental health and the fact that one was there to relieve suffering. One has a young person who may be at risk, self-harm, seriously depressed, and if you feel that she may be attempting to say something, I think in one's duty of care to relieve suffering that it would be an entirely appropriate step to take.

F

Q So we go on to the fact that there was a later session with the young lady that same day?

A Yes.

Q And we are dealing now with head 4 of the charges. What is alleged in relation to head 4 is that Dr Eastgate was inappropriately making known to the young lady personal opinions of his which would tend to influence her in the future.

G

A Well, again, I have obviously had the opportunity now of seeing Dr Eastgate's responses and the issues associated with that. I do not feel that in the process of what I was trying to indicate, the therapeutic work of trying to relieve suffering, relieve guilt, to enable her to feel empowered to make comments that something does not sound quite right or that you would be concerned about this if it affected other children, I see that as being inappropriate or an unprofessional statement to make in trying to provide comfort and support.

H

A Q If Dr Eastgate had, in the course of the interview, actually suggested to her that Professor X had stroked her breasts or said to her something like, "Well, I wonder if Professor X has stroked your breasts?", would that have been appropriate?

A Of course that would not be appropriate. That would be a quite inappropriate statement to make. One is attempting to give a young person the opportunity to take matters further, to share with you their concerns, for them to know that you are able to hear and listen to issues, which might be totally unacceptable in ordinary statements.

B Q Given a description by the young lady of what is set out there of what she is saying Professor X has done, what should Dr Eastgate's response have been to her, if she said that she felt responsible for what had happened?

A The automatic thing one needs to talk to with a young person if you are there to relieve distress would be to say, "How could a child of nine possibly be responsible for an adult's behaviour towards you if it was as you are describing?" You cannot leave a child feeling that she is responsible for an adult's action as unacceptable?

C Q Would you in that position have any concern for other children in case the matter be true?

A I noted one of the issues raised by Dr Eastgate was his feelings when he learned this. Obviously I was at medical school with the individual named. He is a colleague of mine. I would be ---

D Q This is Professor X?

A Yes. I would be most distressed if I had heard this given, but obviously my responsibility to consider the needs of children would make me feel that this is an issue which I must try to understand more about.

E Q Dr Eastgate went on, rather than waiting for another week to pass, to have further sessions on 10th and 11th with Miss A.

A Yes.

Q Before doing anything further about the matter?

A Yes.

F Q Do you think that was appropriate?

A Entirely appropriate.

Q What would be the purpose, in your view, of continuing sessions with her over that period of a couple of days following those initial disclosures?

A It seems to me that a young person who is making statements of this nature ---
- It would be different if it was a two or three year old making a statement, who had no knowledge that what was happening; it would be inappropriate or would be of concern. But a 13 year old with the sort of ability level that this young person had, the capacity to think as an older young person, I think it would be very important to be supportive, and to say, "I know you have been saying these things. It may be helpful if you have more to say because at least maybe it is going to help you in terms of your very deep distress, your desire to harm yourself, the problem which I, as a doctor, am trying to help you with, which is your mental state, your state of suffering".

H

A Q Then in head 5 of the complaint against Dr Eastgate it is alleged that he erred, in relation to those sessions that we see notes of on page 8, in that he failed to keep a verbatim account of his interviews. Would you have expected a clinician in the position of Dr Eastgate at that time to be taking verbatim notes of those sessions on 9th, the second session on 9th, 10th, 11th?

B A No. I know from comments made by Professor Zeitlin, that he may take a different view from myself. If you do not mind a very brief diversion, he and I were both trained at the Maudesly Hospital. I work at the Tavistock Clinic where the tradition is that we with the trainees are encouraged not to write notes but to make notes afterwards because of a view that it so disrupts the capacity of a child or a young person or an adult to be able to create the sort of intimacy where you can share issues of great concern.

C Q Would the situation be different if one was engaged in the investigative process following a decision to have a formal investigation of the matter?

A Of course, it is entirely different. Certainly in the meetings that I held with the individuals, I made very detailed notes and that is what I would do. In the case I mentioned where we were roundly criticised for breaking all the guidelines, I had very detailed notes and could actually help the court understand the process of my thinking, but this is a very different context. This is an ongoing, therapeutic process and the notion of requiring verbatim notes would not be appropriate.

D Q We then come to 12 July and you will have seen that Dr Eastgate on 12 July made contact with a Mr Evans, who was the Senior Social Worker and Joint Co-ordinator of the local Child Protection Team, someone with whom he had worked before. In the first instance, he sought advice or to discuss the matter with Mr Evans. Would you regard that as appropriate or inappropriate?

E A Absolutely inappropriate. It is the approach on which I have consulted in adolescent units with a very similar mix of young people. Often an issue comes up of a young person who begins to make statements which are of great concern about his or her experiences. We will check at an appropriate time with the Child Protection Co-ordinator: how would it be best to proceed in the work with this young person because of the nature of the statements that are being made? Indeed, the process which occurred here, the decisions that were made, the way that it was managed, I have seen occurring on many occasions. There was nothing unusual in the process which occurred in this case.

F Q What is said is that Dr Eastgate should himself have conducted, in effect, further investigations to satisfy himself of the veracity of what the young lady had been saying to him during those sessions.

G A An entirely inappropriate suggestion because then he is taking on the role of investigator. When we were doing assessments in the Eighties, we did that because nobody else was doing the investigating, but we subsequently trained the police social work teams, and the whole policy has developed so that they properly carry out the investigations to ascertain whether what could be a potentially criminal act has occurred. It is not the psychiatrist's task to do that.

H Q Is the communicating with the joint co-ordinator of the protection team, a professional in a different discipline concerned with child abuse, in accordance with the Cleveland recommendations and philosophy or not?

A A It is entirely appropriate to the Cleveland philosophy, to *Working Together*, to the whole establishment of the notion of *Working Together*, which I think is one of the structures which I, and those of us who advocated that approach, going back to the Seventies and before, can be most proud of in this country, that we have a tradition of working together, of sharing between disciplines, rather than, as in some countries, having a total isolation. I think it was the entirely appropriate step to take.

B Q It is said that there is a danger in communicating with someone from the social services that, first of all, given the status of the person expressing the concern, there will be a reference to a strategy meeting, whatever the doctor may ultimately want to do, and that that would be not necessarily in the child's best interests. What do you say about that?

C A I note that Professor Zeitlin in his evidence indicated that it was one of the recommendations he made. Again, I am in no doubt that our development in this country of a strategy meeting where professionals think together about what is in the best interest of this child, this young person, taking the young person's concerns seriously, looking at issues of consent and confidentiality with considerable care, would be the right way of proceeding in this matter. If I had been consulted, I would have said that is what needs to be done, painful and difficult though this situation is.

D Q Should the concerns have been shared with the parents before any approach to Mr Evans was made?

E A No. I think that with a Gillick competent young person, how can you possibly take a young person whose distress and suffering you are trying to help, if that young person is concerned about not talking to parents? Obviously in this case at an appropriate time following advice, the parents were talked to and there was a discussion with the mother. I think that is entirely right. Again, every day we are dealing with cases where a decision has to be made: is it appropriate to speak to parents or not? Very frequently with young people of this age we are having to think: how can we take the young person with us to say, "We must speak to your parents at this stage, even though you may not wish us to do so."

Q Is it apparent from the notes in this case whether the young lady was on good or bad terms with her parents at the time?

F A It was evident, like many young people who are deeply distressed, who are self-harming, who have a degree of negativity towards themselves, that she was on rather bad terms with her family. That is a very common situation for young people in adolescent services. It is an issue we work with, or people in that service have to work with, every day.

Q Would the involvement of the child protection team and the setting up of a strategy meeting cause you concern that premature action might be taken as a result?

G A No. I think that the actions which I see reported are very typical of the way that people act. I think it is evident that Professor X had no knowledge that this was an issue which came, because it did not reach that stage. Why should it do so, when a process was gone through which examined and looked at the issues with great care?

H Q So who should take the decisions about the way forward when allegations of this sort have been made by a child in this sort of therapeutic context?

A A It must be taken jointly. We have a process of working together. We have to build up relationships with colleagues, share the most difficult situations with them, seek their guidance and go along with a process to ensure that children are protected.

Q Was there sufficient cause to even approach anyone else to consult them, let alone involve the child protection team at that stage?

B A I am in no doubt that the information which came up in the process of Dr Eastgate attempting to relieve this young person's stress and suffering gave sufficient cause for concern to say that this was the correct approach for him.

MR TURNER: Would you wait there and answer some questions from Miss Glynn, please?

Cross-examined by MISS GLYNN

C Q Dr Bentovim, you have made reference to your very considerable experience. Indeed, that experience includes giving evidence to the Cleveland Committee, does it not?

A Yes, it does.

D Q Can I ask you to take up the literature bundle, please? (Same handed) Could I ask you to turn to page 206? I am not going to ask you any questions about the circumstances of Cleveland, I am simply going to ask you about some of the principles that we can see set out here in this chapter of the report. Chapter 12, paragraph 24. There is a reference there to your team and, towards the end of that first paragraph, you are quoted as saying:

E "It is extremely important that interviews are carried out in a very open way and that is the attitude which the interviewer conveys to the child, which is open-minded and that is the way in which he should conduct the interview.' This is equally essential when a child unexpectedly speaks of abuse during therapy."

F Can we take it therefore that some of the fundamental principles that we are concerned with in this case apply equally to therapeutic interviews or indeed investigative interviews? Principles like not leading the child, not influencing the child to say something she might not have said otherwise by expressing your feelings or opinions.

G A Clearly, the aim in therapeutic work must be basically, as I have already indicated, to maintain the therapeutic purpose, balancing the fact that information may come up unexpectedly, and one has to remain open minded about that. There is a difference between being supportive of what a child says and obviously responding in a way which would be quite inappropriate.

Q You have mentioned a case in which you were criticised because you involved the child in facilitative techniques which were highly necessary at the time because of the grave circumstances of that child.

A That is correct.

H

A Q So do we take it, as I think Dr Hall has agreed, and indeed Dr Eastgate, that facilitative techniques may be undertaken, including leading questions, when there are serious reasons for doing so?

A Where you have a young person whose life you are concerned about, whose life could be in danger because of her actions against herself, that in my view is a risky situation.

B Q Dr Bentovim, please do not misunderstand me. I think we are agreed on this. The fact is that in this particular case, where we are not talking about a life-threatening situation, the child was an inpatient in the hospital, she was not seemingly at grave risk from anyone, you would expect the normal principles to apply when undertaking therapeutic sessions with her, in other words, not to lead her, not to influence her into saying something which she might not say otherwise by expressing your feelings or opinions?

C A The only problem, if I may say, with your question, the only problem I have is that inpatient units are safe settings. Unless you are in a locked setting, you certainly are not sanguine about young people being safe. One is constantly concerned about the highly risky behaviour of young people in adolescent units and certainly I do not regard it as a safe place. It may well therefore be appropriate to use approaches to assist young people in speaking. It is not a neutral context.

D Q If it is of any interest to you, that is not the approach Dr Eastgate said he was taking at the time.

A We are talking about in theory.

E Q Yes. If I could turn to 9 July with you, please. Could you turn to the file note in tab 2, page 7? If we look at what happened on 9 July in these two sessions, the first at about 1.15, the second later on that day, there was nothing very shocking about this, putting yourself in Dr Eastgate's position, was there? There was nothing very shocking about what was happening.

A Sorry, could you explain what you mean?

F Q I am using a word which has been used by another witness. Would you say that if you were in the situation Dr Eastgate was in, interviewing this child in a session, either during the course of the first session or indeed the second session, that you would be shocked by what was happening so that you felt burdened?

A I would be – whether “shocked” is right or “burdened” – I would always feel that if a young person seems to be implying that somebody who I obviously would respect and would feel is somebody of considerable standing and reputation, if a statement is made which in any way makes you concerned about the behaviour of that person, I would always be burdened by such, even if there was a suggestion of such a thing.

G Q As an experienced consultant adolescent psychiatrist, as Dr Eastgate was, you would not expect that shock, that feeling of being burdened, to cause you to depart from the principles of good practice which are so well-known by all the practitioners at that time, would you?

A You would not and I do not, as I have already indicated, see Dr Eastgate as having done so.

H

- A Q Looking, if we may, at the first of those two sessions – this is head of charge 3 – the topic of this session was clearly Miss A talking about people who had let her down.
A Yes.
- B Q Are you familiar with the background that led to that session, in other words, what it was to date that she felt she had been let down by?
A Yes.
- Q What was it?
A I think she felt let down. One of the factors was illness, death, a headteacher who had left, I think there were issues about her horse, there were a number of factors of that nature and I was also aware that she had been distressed at the management of her growth problem.
- C Q All those matters she had described to those who were trying to help her on previous occasions, had she not?
A Yes.
- D Q There appeared from the notes to have been very little difficulty in extracting that information from her, to the extent that the notes simply state that she was saying that there were issues concerning the resignation or retirement of the headmistress, the death of B and so on. Would you agree?
A That is correct. Obviously the issue in the first paragraph on that file note was that Miss A – a very frequent clue that one picks up – is saying she is holding back from talking about something, she wishes she could talk. So there are indications that there are issues which she needs to talk about but has not up until that point.
- E Q So this is a departure, this is something that she had alluded to in the past not being able to talk about and now, in the first session on the 9th, she is going back to this issue of something specifically that she cannot talk about.
A She is also, if I may say, talking about being “frightened” and “numb”, which is very much associated of course with traumatic experiences.
- F Q So Dr Eastgate would have been aware that here he was dealing with something potentially very sensitive and difficult for the child. Is that right?
A That is correct.
- Q In those circumstances, you, as an experienced practitioner, would be very careful not to lead, would you not?
A You would try not to lead, but when a young person is saying, “There’s something that I’m not talking about”, you obviously have to find ways of helping that young person talk about it. That statement from a young person is often in my view, or can be seen, as an invitation to be asked about areas. So from that point of view, if somebody is saying, “I have something I am not talking about”, then I take it as a view in the therapeutic context that you, as a therapist, need to find a way of helping that young person talk about the untalkable, particularly as it seems to be something to do with numbing and trauma.
- H

- A Q Are you aware of the evidence given by Dr Eastgate that this was a child who came across to him in the circumstances as being almost frightened?
A Yes.
- Q And expecting Dr Eastgate to be cross or angry or refuse to see her again if she tells him something which does not meet with his approval?
A I am aware that she has a very deep sense of guilt and therefore feels that anyone she spoke to about it, particularly Dr Eastgate, would be rejected.
- B Q By the end of the second paragraph a number of questions have been put which have eliminated certain possibilities. Nevertheless by the end of that paragraph there are still a number of possibilities, are there not?
A Yes.
- C Q Such as that there has been a let-down by a nanny or babysitter or somebody in London.
A Yes.
- Q Do you nevertheless say it was appropriate to guide Miss A to the topic of a medical person?
A Given that there was an awareness, which was acknowledged by the mother, that Miss A had mixed feelings about the whole process, obviously, as I think Professor Zeitlin indicated, the issue of young people who have precipitative premature growth – working as I did with the endocrine team at Great Ormond Street, I know children can be very distressed and enormously sensitive to the attempts that people make to try to help – obviously it would be appropriate to guide her, because it may well be from the knowledge that something around that whole issue, that process, could have been leaving her feeling troubled.
- D Q It would appear from this note, do you agree, that the first mention of the word “uncomfortable” comes from Dr Eastgate?
A Yes.
- E Q Would you agree that “uncomfortable” is a loaded word in these circumstances?
A I have obviously read Dr Eastgate’s response to that. I think it is extremely difficult to find words that indicate and give permission to somebody of 13 – not 5, but 13 – that it is all right to speak about issues which that young person might feel very embarrassed, guilty or ashamed to speak about. So I think giving a probe, using the word “uncomfortable” is quite justified in this situation.
- F Q Would it not have been better to have then asked Miss A how she felt or describe how she felt? It would be easy and indeed wholly appropriate, would it not?
A Of course. If we were here in a supervision session and going through this, we would say, “Had you thought of trying it this way or that way?” Of course there are other ways of dealing with this, but I think the approach taken by Dr Eastgate is one of a number of directions. There could be some which are better, some which are not so good. I think it is an acceptable term to use, although there could be alternatives, as in every situation.
- G H

A Q Would you not agree that looking at this passage as a whole, the sort of language that is being used in that last paragraph is consistent with something that may be child sexual abuse being discussed?

A I do not feel – it is only with the eye of hindsight that one could say, “Well, maybe this was forming as an idea in the examiner’s mind.” One could say that with hindsight, given what we know. But I feel that what Dr Eastgate is trying to convey in a note which is an account of a therapeutic setting is something of the general spirit, that he is trying to help this young person speak about the unspeakable. To use words like “uncomfortable”, whatever that is – and I do not see an assumption in Dr Eastgate’s mind which comes through as thinking he is thinking about sexual abuse here.

B Q You have said to the Committee that you have noticed and noted in a past report how excellent the recording of sessions was by Dr Eastgate in this case. Is that correct?

C A What I am saying is that looking at the total recording of Dr Eastgate and his team, not only relating to this, but looking at the whole picture, given that we were asked to come in at a late stage, when there was a great deal that needed to be looked at, not just this area, I said in general terms, given the pressure and stress within adolescent young people’s units, the standard of note keeping was high.

D Q You will appreciate, Dr Bentovim, that this case is not about the later period; this case is about very specific dates.

A Of course. I appreciate that.

Q You are not suggesting that the standard of note keeping between 9 and 19 July is of an excellent standard, are you?

E A What I am saying is that the standard of notes over this period is consistent with the sort of recording which I think you would see in adolescent services’ attempts to capture the essence of therapeutic processes of work and in my view the notes here are wholly unexceptional in terms of general practice within adolescent services. Overall, I took the view that the approach taken by Dr Eastgate and his team in understanding the issues, taking that case as a whole – and I appreciate not the matters dissected here – was of a high standard.

F Q I am afraid we are going to have a look at the matters dissected here briefly. Dr Eastgate has given evidence that on the first occasion on 9 July, because of the content of what he was told, he took a fairly full note. Indeed, there is no criticism of the contents of page 7 in terms of recording. It was clear – and I think you have already given evidence about this – that there was something troubling this child and she was saying and she had certainly said a number of things that were of significance in that first session.

G A Yes.

Q To the point that Dr Eastgate decided to have a second session with her that day.

A Yes.

H

A Q Indeed, during that second session it would appear from this note comprising five lines, three words, that she gave an indication that her breasts were stroked by an eminent paediatrician.

A Yes.

B Q Given the situation that Dr Eastgate was in before that second session on the 9th, would you have expected him to be anxious to record that session very carefully and, by that, I mean make either contemporaneous or very near contemporaneous notes of it and full notes of it?

C A No. I think what Dr Eastgate was attempting to do was to clarify further what the issues were that this child was distressed about and for him to summarise them. After all, again I come back to the fact that this is a girl of 13, not a five-year old, and if indeed there were concerns which needed to be further investigated, they would have to be done through a proper investigative process. So, as far as I am concerned, summarising the issues which arose would have been an entirely reasonable way of proceeding.

Q Dr Bentovim, do you agree with the evidence of Dr Hall to the effect that teenagers do not like to have to repeat what they have said time after time?

D A They certainly do not like to but, on the other hand, one of the pieces of work we have to do in helping young people understand the nature of our investigative process is that this is our process and, if a serious allegation is made about the action of somebody towards one, one has to make a statement to a context, which is a social work police interview. I may feel that other systems might be preferable but that is our professional situation. So, for a psychiatrist carrying out therapeutic work to summarise the main features, given that his is not going to be an investigative process because the courts are not interested in that, a statement against not somebody within the family but somebody outside the family, is bound to have to come at a criminal level. The statement that the child makes to the police social work team is what is key, not this here.

F Q Leaving aside the forensic aspect of this altogether, I think it is agreed that Dr Eastgate did not focus at this stage on court proceedings later on. We are looking at this in a therapeutic context. Would you agree that there is nothing in this note to indicate how it was that this child first made this allegation of breast stroking, the circumstances, the context in which she first made that allegation to the point where we cannot even tell if he led her?

G A The point I am trying to make is, yes, maybe it is not possible to determine whether she was led or not, but the issue is not of relevance because this was not an investigative process. If it were an investigative process, if this were the evidence being presented in a childcare matter or in the court, then of course this would be of great concern but, as a recording of therapeutic process, it is not material whether we know or not. This is a therapeutic process, it is not an investigative process.

Q It is the first mention, so far as we know, of this particular allegation. Do you not agree that, when assessing how to treat this child, in assessing the validity of the allegation made, not for forensic purposes but for treatment purposes, it is vitally important that the details of how the first allegation is made is recorded?

H A I am sorry, it is a confusion between guidelines which are to do with investigative interviewing and guidelines to do with therapeutic process and recording

A and, as far as I am concerned, if we are working in a therapeutic context, we are there to try to know what are the main foci. Of course, one would need to consider what the relevance and what the meaning of this is in terms of the child's general mental state and so on, but I think to confuse guidelines which are to do with investigative reporting with what we should be recording as part of our therapeutic process is unhelpful.

B Q I have not referred to any guidelines at the moment, I am simply asking you about the requirement in terms of treatment to ensure that whoever is looking at these notes understands the context in which this very first allegation of sexual abuse, possibly, is made.

A I am sorry, but who is to look at these? What is the relevance of looking at ---

C Q Other consultants, for example, who may have to take over her care whilst the doctor is away on holiday.

A I do not see the relevance for other consultants. If I were a consultant coming in to look after this young person and I had heard that she had spoken about such matters, the content is what I would need to know about. The issue of how it was brought up or not would obviously be a matter that would be examined if the matter were looked at forensically. As far as the therapeutic content is concerned, what another consultant would need to know is what is the content that this young person is describing because that is what would be important.

D Q Would you be surprised to know that no note or dictation of what took place during that important session was made until 11 July? Do you regard that as adequate?

E A As far as I am concerned, in a context where one is providing a therapeutic service, not an investigative service, the fact that one may dictate a note a day or two afterwards would not be an unusual state of affairs. I appreciate and understand concerns about the content and if we were looking in an investigative way, one would be expecting a different approach to recording. In the context of us here asking whether this doctor is exercising appropriate professional practice, running and helping a young person who seems to be describing very distressing experiences, the way in which it has been recorded would be quite unexceptional.

F Q If we turn to page 10 and the note of 16 July, we can see that Dr Eastgate has made reference, after the strategy meeting, to the requirement to make notes written down as nearly as verbatim as possible and that no leading questions should be asked. Do you see that right at the bottom of page 10?

A Yes.

G Q And he has given evidence that there is nothing new in that, that he was unaware of that requirement beforehand.

A Of course.

Q At that point, it was not being suggested that the nursing staff and indeed Dr Eastgate should undertake an investigative function, was it?

A No.

H Q It was still therapeutic throughout this period.

A A But the difference is quite clearly that there has been a strategy meeting and there is a suggestion that there may need to be an investigative process immediately the whole issue of further information which emerges during the work takes on a different status. We are now in a different phase. We have moved from a phase of therapeutic work, of clarification, trying to understand what is this young person, to say, "There may be a need for an investigation here and therefore we are going to have to adopt a process where we are careful to record." This is now a different phase of work and therefore the instructions to all involved has to take on a different flavour and approach. Not necessarily that you do things differently but that you have to be sure to abide with the appropriate approaches and to make sure that issues which are raised are recorded.

B
C Q From the very outset, on the second session on the 9th, there was the possibility of an investigation, was there not? When she said that he had stroked her breasts, there was the possibility, always the possibility, of an investigation after that.

A I think that, at that stage, what a psychiatrist in that situation would be doing would be to of course bear in mind that there may be an investigation but I think that he is constrained to continue his approach, which is to clarify and to continue to work with the young person to help her share information which would help relieve the considerable stress she was suffering.

D Q Not only was there always the possibility of an investigation once she had made that allegation, but also there was the risk to other children, on the face of it, at the hands of that paediatrician, which would have raised the likelihood of an investigation.

A At that stage, clearly there had been no contact with the protection agency. Obviously, the work being done with the young person was to help determine whether it was appropriate to make that link and that therefore for a new phase to be instituted.

E Again, it is important to remember that we are dealing with a Gillick competent young woman of considerable ability and therefore content of what was being talked about would be quite appropriate.

Q Where there is a possibility of an investigation, whether you are undertaking therapeutic work or not, it is always going to be potentially very important to be able to establish whether or not leading questions had been used and have an accurate record of what has been put to the child and what the child said and in what context, is it not?

F A In my view, of course the general approach which gives an indication that it would be good practice to ring good records is unexceptional. I think though – and I am sorry to repeat myself – that when we are talking about working with a young person at this age at this stage of development, the fact is that we are in a different field and the content of it is going to be important. What happens following the decision that should be an investigative process or there may be is what is going to be important for these issues to be dealt with in a different sort of way.

G Q If I can ask you, please, to turn to tab 1 and the record for 19 July which is compiled after of course the note we have just looked at in relation to the 16th about the requirement for verbatim and near-verbatim notes. This is tab 1, page 24. Have you looked at this document before?

H A Yes.

A

Q This is not an adequate note of a session on 19 July, is it?

A Well, again, I think in terms of recording of the basic concerns that arose and obviously I read that Dr Eastgate, like many of us, uses a letter to make a note of what occurred in the session and I think that is not an unusual way of approaching this matter. I think again the topics and the areas that are brought forth in that particular note is very helpful because it conveys the concerns and I think that, for the purpose of tracking what this young person is speaking about, this is quite appropriate.

B

Q You have used the word “tracking”; what exactly do you mean by that?

A To record the general themes and issues that a young person is raising, the major themes that are coming through in a session with a young person. Suicide obviously, worries about self-harm, a comment on the content of what she is saying about Professor X and so on. So, I think that, as a way of communicating to a fellow professional what are major concerns, if that is the purpose, which it is, of this note, I think it is perfectly adequate.

C

Q Your view is that it is adequate to give a general theme in the note of what is taking place; is that right?

A I think it is one of the approaches that may be quite appropriate. In other words, I would not expect that there would be a major change in the way that a psychiatrist in this context would, in terms of recording the issues that are coming up because the themes are really what he is now speaking about.

D

Q Dr Eastgate has said that his recollection is that this document would have been more explicit to Mel Smith, the recipient of it, than it is perhaps to us and the Committee.

A Of course, because it is clearly meant as part of the necessary process of communication between colleagues in a residential unit managing young people who are worrying. Clearly, that is the constant concern, to keep a young person safe. Communicating what are the major preoccupations of a young person is important to one's colleagues.

E

Q So, that is why it would have been more explicit to her than perhaps to us now.

A Yes.

F

Q What he went on to say was that in fact what the child had mentioned was that she had been touched intimately by her father and she also referred specifically to the breasts. If that is what was said and it is left out of this document, it is an inadequate record of what was said, is it not?

A Well, in the sense that it is the first time that she raises issues to do with her father, but again, because this is a young person at her stage of development and her age, the fact is that this is clearly a theme which may come up for further exploration as time goes on, as clearly it did.

G

Q Can I be quite clear about this. Are you suggesting, if this child said that she had been touched in an intimate way and on the breasts by her father some time before, that this is an adequate note or not?

A In this context with this person at her age and stage of development, to give an indication that this young person is making a reference of this nature I think is quite

H

A adequate, at this age and stage. If it were a three-year old, of course I would be very concerned, but this is a girl of 13 who can give a very good account of herself, if she wishes to.

Q It is adequate to leave out the intimate nature of the touching and the breasts, is it? That is adequate note-taking?

B A As far as I read it, “felt her at the same time”. As a shorthand for giving an indication of this child beginning to make some reference to her father, I think it is appropriate for a child of this age and stage of development.

C Q Let us look at what is said. It is said that “this process of going to see [Professor X] started when her parents looked at her and said, ‘[Miss A] you are getting too big at the age of eight, you need to see someone to stop you growing.’ This left [Miss A] feeling quite hurt, partly because [Miss A] says that her father also felt her at the same time and she found this humiliating and degrading.” That could be prodding her, teasing her or saying, “[Miss A] you are getting too tall” or “you are getting too fat”, it could have been anything of the sort within the context of the family.

A Yes.

D Q What makes all the difference is a reference to intimate touching of breasts, is it not? How can you say that this is an adequate note in the circumstances?

A I am sorry, I have to keep reiterating the same point. There is a considerable difference between the notes, which are to do with communicating between colleagues, dealing with a young person who is at this age and stage of development, where clearly an issue of that nature is going to need to be pursued at some point in the future. This is not an investigative process; this is part of trying to clarify and understand what these young person’s experiences are.

E Q That document was written, or dictated, just before the doctor was going on holiday.

A I appreciate that.

F Q He went away for some three weeks. The child was clearly distressed, unstable, required careful management while he was away. Are you telling this Committee that in your professional opinion that note, which is the only note for the session on 19 July, is adequate?

G A For the purposes of communicating with a colleague who knows the young person well, with whom you are working closely, I think that to say that this issue has come up, I would feel, would be quite adequate for my colleague to know that there are issues of concern which are now beginning to come up, but clearly at that point they remained needing to be further explored. I think that it is an adequate indication of concern to a colleague who knows this young person well.

Q On the second session on the 9th, head of charge 4, which you find the file note for at tab 2, page 8, you have given evidence about the adequacy of this note. As I understand it, you do not agree with Professor Zeitlin or indeed Dr Hall that this is an inadequate note. You say it is adequate, is that right?

H A What I am saying is that I accept that at this time and at this place, because of the issues that are raised, it would be helpful if more information had been given. But

A in terms of the practice of adolescent psychiatrists in contexts such as this, for the purpose of it, it is a note which would not be unusual to be seen by many adolescent psychiatrists.

Q At this time, and at this place, it would have been helpful to have more detail. Helpful to whom?

A At this time and place.

B

Q Helpful to whom?

A It would be helpful given that issues have been raised about the particular approach taken by this psychiatrist.

Q Helpful to whom? I am sorry, I am not understanding, Dr Bentovim.

C

A Allegations are being made which are being tested in this Committee that this psychiatrist was behaving in an unprofessional way, so obviously it would be helpful if there were a different sort of note. But, as far as the practice of the psychiatrist in this context, at this time, pursuing this task, this would not be an exceptional and unusual note to see as part of the process of work that was going on at that time.

Q If we look at the previous page, we can see that a particular style of interviewing has been adopted there: a process of elimination; various open alternatives given, which there is no criticism about.

D

A Yes.

Q But the fact is that on the following page, for the second session, we have no way of knowing what style of interviewing was being adopted, do we, because of the note?

E

A I appreciate that we do not know what style of interviewing was pursued. The therapeutic approach, which is indicated and which obviously Dr Eastgate has spoken about in more detail, is obviously the approach which in general terms has been used, and what that note reflects is the main themes and issues which came up.

Q It was important that Miss A should be informed that she was not to blame for anything, was it not, in that session?

F

A Yes.

Q And that she should not take responsibility for what she felt had happened?

A The aim is to help the young person be clear that they are not responsible for what they perceive an adult to be doing to them, if that is what they are describing and they are feeling guilty.

G

Q In those circumstances, where you wish to convey to the child that she should not feel responsibility for what she says happens, or indeed take any blame, can you see any possible justification for the expression by the interviewer of his worry that he – that is, Professor X – may have done “it” to other children as well?

A Obviously this is written in shorthand, but I see the statement as also being part of a way of being able to convey to this young person that she is not wrong in what she describes; it is not her fault; she is not responsible for it. The fact of saying “If it occurred to other children” would be part of the same way of freeing her from

H

- A a sense of guilt and feeling of responsibility for the action of an adult which she perceived as causing her distress.
- Q It would have been very simple, in the circumstances, to make it clear that she was not to blame herself for feeling uncomfortable and that it was wrong, and that is all you need to do in the circumstances, as an experienced consultant adolescent psychiatrist. There is no requirement to mention other children and the risk to them at all?
- B A The difficulty is that, depending on what the child or young person has said, it may be totally justifiable to say that. The difficulty, of course, is that, because what is recorded here are the main themes and issues, the content and the process is clearly not available for us today to understand what the context of that statement was.
- C Q But the risk is – I suggest it is a very real one – that this child, being anxious not to incur the disapproval of the doctor, would have taken it, in those circumstances, as him endorsing what she had said?
- A I am sorry, endorsing in the sense?
- Q In the sense that he was saying, in effect, that he acknowledged and endorsed and believed what she was saying.
- D A I think, with respect, the sentence, which reads, “She was surprised when I suggested that only did it sound wrong to me”, there is an indication there – obviously one has to read into it, and one could read it in many different ways – that Dr Eastgate is being tentative in what he is saying, to say, “Well, if that happened, that does not sound right to me”.
- Q But it is not hypothetical, is it? That is not put hypothetically.
- E “I suggested that it sounded wrong to me but I was worried that he may have done it to other children as well.”
- A Obviously, because of the shortness of the note, it highlights themes. That sentence, I suggest, is probably a summary of quite a lengthy conversation between them. Of course, a statement like that can be said in a way which is unhelpful and untherapeutic or can be helpful and therapeutic.
- F Q What do you say about the appropriateness of saying to Mrs A on the 12th, in front of Miss A, that Dr Eastgate was 98 per cent certain that this had happened?
- A The difficulty is that I know this has been referred to, but I have not seen this as part of anyone’s record. In my understanding, it is the recollection of the mother here. Am I correct in that?
- G Q Let us assume for the moment that it was said. If it was said, what is your professional opinion about the appropriateness or otherwise of saying such a thing in front of the child on 12 July?
- A Again, the difficulty is that, without an accurate account of the detailed process, it would be very hard to know whether it was stated, whether it was said in the way that it is reported, and so on. One has the same issues around that. Of course, if it is made as a bald statement, then obviously other possibilities of how this
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A whole process could be explained would then be left out. When we came to report, we had a very different interpretation of this child's experience as she reports it here.

Q Dr Bentovim, can I just ask you about a hypothetical situation? The Committee will decide whether they accept that evidence or not. If they were to accept the evidence that Dr Eastgate said to the mother on 12 July, with the child sitting on the floor in the same room, that he was 98 per cent certain it had happened, that would be wholly inappropriate, would it not?

A I think that, if he had made a statement of that nature in the context that there was a strategy meeting where these issues were going to be discussed in an inter-professional context, I would be very surprised if he made such a statement and I feel that it would be an unhelpful statement to make if it were made in the way that is reported there.

Q And if it were made in the way it is reported there it would certainly reflect his view as to his belief in what the child had said about Professor X, would it not?

A If he said it in such a way, with a girl of 13, clearly it would give us a very strong indication, giving it a figure, in his belief in the actions alleged.

Q You have been asked questions about head of charge 6, which is the referral head. You have told the Committee that there is nothing wrong, in your opinion, in consulting with a fellow professional prior to a referral being made.

A Yes.

Q I suggest to you that the evidence indicates much more clearly than that that it was not advice that was being sought but a referral that was being made because there was no possibility, in the circumstances, of a referral not being made by the social worker to whom the doctor was working. We will put that on one side for the moment, if we may. Clearly, before a referral is made by a doctor there has to be a critical threshold reached. Would you accept that?

A I think it is very difficult. As to the notion of a critical threshold, the argument about what is a threshold in, for instance, the family courts, is an issue which is hotly debated. I think the notion that there has to be a critical threshold is a very difficult concept on which to give any sort of, as it were, accurate views. I think the critical context is when an experienced professional, with extensive experience of young people and the concerns and the experiences of a young person, feels a deep sense of concern about the statements made by the child, then that, in my view, is a critical threshold. There is no guidance. There are certain issues. If a child comes with fractures, bruising, and so on, that ought to be seen as a critical threshold – sadly, not in the Climbié case. I think the issue of what is a critical threshold is an issue of professional judgment. In this context, clearly, if this particular professional, if Dr Eastgate, was concerned about what he was hearing and learning from this young person, then that, in my view, is an appropriate critical threshold.

MISS GLYNN: Sir, the temptation is to go through the various criteria that might amount to a critical threshold in this case with this witness but it may be that the Committee would not be served well by doing so. The points are probably already clear to them and this witness has given his evidence about it. I can test it further if it is going to be of assistance to the Committee. The Committee knows what the points are from the Complainant's point of view.

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THE CHAIRMAN: I will look to each member of the Committee, but my suspicion is that they have heard a lot of argument on this issue and have been able to come to their view on it. It seems that each individual has; I do not know what their view is. I think you do not need to take this further.

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MISS GLYNN: Sir, could I crave the Committee's indulgence? I have been handed a great volume of notes. You will appreciate that I had no advance warning of this expert evidence before it was called. In fact, it does depart in a number of particulars from the evidence of Dr Alyson Hall. Therefore I should like the opportunity to look at these notes properly before I conclude my cross-examination. The notes were from Professor Zeitlin, who, of course, is the Complainant's expert.

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THE CHAIRMAN: How long will you need?

MISS GLYNN: I do not know until I have had a chance to read them, but I would not have thought very long. Perhaps until quarter past four?

THE CHAIRMAN: We shall take a break now and reconvene at twenty past four.

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Dr Bentovim, I am sure you are very familiar with this. You are under oath and may not speak to anyone about the case.

(The Committee adjourned for a short time)

THE CHAIRMAN: Miss Glynn, I am concerned about documents being made available to you at such a late moment. If you need time, you must say so.

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MISS GLYNN: Thank you very much for that, sir. I shall not need more time. I can conclude matters with the witness.

Q Dr Bentovim, I have four brief matters. First of all, may I clarify your evidence in relation to the second session on 9 July? I think you were in agreement with me that it is impossible to tell from the notes whether the same technique of questioning had been adopted in that second session as in the first.

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A It is not possible at this stage to say other than that Dr Eastgate's account of his general approach, which he gave evidence about, his reflection on the more detailed notes, gives an indication of his general approach to talking with a young person and helping her talk about her distress.

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THE CHAIRMAN: We are very short of time because there are some witnesses waiting. If it is possible to give a "Yes" or "No" answer it would be very helpful. It may not always be possible, in practice.

MISS GLYNN: Although no criticism of this sort is made against Dr Eastgate, because of the content of that second note, it is in fact impossible to say whether he said to Miss A by way of an alternative, "Did he touch or did he stroke your breasts?", for example. You just cannot say, can you?

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A A You cannot say; but, on the other hand, I think that, given that Dr Eastgate has clear views on what is an appropriate probe and what is not, the likelihood of his making a statement of that nature would seem to me very low.

Q The fact is that it is impossible to tell what the circumstances were, and the answer to that must be "Yes", must it not?

B A You cannot tell what the circumstances were. You can only put it in the general context of the approach of this doctor.

Q Everybody working in this field, I suggest, understands how crucially important the first disclosure is. Would you agree with that assertion? The first disclosure by a child of inappropriate touching is crucially important?

A I am sorry, I can only repeat that --

C Q Well, I ---

A It is crucially important. It depends on the age and stage of the child or young person and one takes a different view for a young person who clearly has a different level of suggestibility from a very young child.

D Q It is not only crucially important forensically, as all of us know, because the way in which these allegations come about is terribly important in the context of a court case; it is also crucially important in order to assist the child later with assessing the significance of what she has said in terms of treatment, is it not?

A As far as the issue of treatment is concerned, the way in which an issue is raised is far less relevant than the content itself, I would suggest.

E Q You have mentioned the age of the child on a number of occasions. You are not suggesting that the age is necessarily determinative of the level of suggestibility, are you? Adults can be highly suggestible, as the courts have found in numerous cases.

F A I think I am making the suggestion that -- we are talking about the field of children and adolescents -- relatively speaking, younger children are more suggestible than older children. Of course, anyone of any age can be suggestible, but generally speaking the guidelines about the way that allegations first come out are very much focused on the way in which young children report because it is known that they are more suggestible than an adolescent, who has far more of an adult competence.

Q Can I now ask you about the second session specifically and the topic of endorsement of what the child has said? If a child takes on the mantle of the abused child -- in other words, takes the view that she is now an abused child as a result of having what she has said confirmed in terms of abuse --- Do you follow me?

G A I understand what you are saying, yes.

Q There are a number of problems that flow from that, are there not, particularly, for example, if it is decided not to proceed with an investigation against the alleged perpetrator? Either the child is left feeling that she has not been believed or she is left feeling that abuse took place and nothing has been done about it. In other words, she is let down. Would you agree with that?

H A You are putting a theoretical proposition to me, not in relation to this matter.

- A Q If we can deal with it on the basis of the hypothetical situation, that must be right, must it not?
A I think where I would differ from the statement you have made is the notion of being labelled as a child who has been abused. There is a considerable difference between somebody trying to help a child feel that they are not responsible for what they are reporting is occurring and saying "You are a child who has been abused".
- B Q Would you agree with the suggestion that parents are used as part of the therapeutic process right from the outset of the contact with the child by the interviewer in order to obtain information? They are used as informants about the background?
A That would be part of the initial process when a young person is referred to a unit such as this.
- C Q Indeed, we know from these notes that that is exactly what happened in this case?
A Yes.
- Q Because Dr Eastgate did speak to Mrs A and that was how he learned about Miss A's problems, if I can put it that way, with Professor X?
A Yes
- D Q And the weight issue and so on?
A Yes.
- Q You would expect to use parents as informants in relevant circumstances, would you not?
A You would, but one of the problems when you are dealing with adolescents is that you have to be exquisitely sensitive to doing it in such a way that you do use your alliance with the young person. Again, there is a matter of judgment about how you use or how you link with parents, with young people.
- E Q Can I summarise in this way, Dr Bentovim. As I understand it, the sum total of your evidence is that you are not critical of any part of Dr Eastgate's handling of the matters before this Committee?
A I think the position that I am taking is that of course there are matters which if I was consulting about the process here, I would be discussing with Dr Eastgate in terms of what is unfolding here. But there is a difference between what would be part of ordinary professional discourse and seeing his behaviour as unprofessional. That is a distinction which I would make between the necessary debate that would occur in any consultation context and a judgment which I am being asked about as to whether any of what has occurred here would be perceived as unprofessional.
- F Q What would you criticise?
A I am not proposing to make specific criticisms. I am not attempting to go through in that way. I am making a general point that of course, just in the way that there would be debate about assessments, debate about therapeutic work, discussion of what would be the best way or a different way, we had an exchange when you said, "Would it not be better if it was put this way?" and I acknowledged, "yes, it would be". That would be a matter of supervision and thinking about technique and
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A approach, but I am being asked: is this unprofessional? That is the distinction I am making. On the issue of if I was going through as a consultant if I was asked by Dr Eastgate to go through this with him at the time and say, "Help me think about the way that I behaved, that I practised here, or the way that I actually carried out this process", there may be issues that I would discuss with him. The question is: are his actions unprofessional? They are not.

B Q You will see that the word "inappropriate" is used in a number of the heads of charge.

A Yes.

C Q You said to the Committee that there must be in this case, as far as you are concerned, matters that you would want to have discussion with him about. I am trying to understand what you are saying here because in all the cross-examination that I have undertaken, it seems that you have been very reluctant to attach any criticism to any one of the points that is being put to you.

A Because I am being asked: is this unprofessional practice? There is a difference between a practice which one might debate about and whether it is unprofessional. What I am saying to this Committee is the generality, that generally speaking I think Dr Eastgate's approach has been responsible. He has attempted to understand a young person who has presented with great distress. He has attempted to understand a young person who says: "I have got things that I am not able to talk about". He has attempted to do that work. In doing so, he has done it in a professional and appropriate way. If he was coming to me and saying, "What do you think about this?" we could discuss different ways of doing it, but there is a difference between saying, "Is this practice unprofessional" to saying "you could do things differently. That is what I am trying to say.

E Q Dr Bentovim, I am not speaking about whether something is professional or not. I have asked you a number of questions about the adequacy – and I emphasise the word "adequacy" – of the note taking. In relation to each set of notes that I have asked you to look at you have declined to accept that they are inadequate.

A Because ---

Q That is right, is it not? You have given your reasons. That is right.

F A I am saying that in a context of professional practice, in a context where this was carried out, the task, the aim of it, it was adequate. One could say, as I have obviously conceded for the purposes of this particular hearing, it would have been helpful had there been more detailed accounts, but I regard the professional practice is adequate because it was not done for the purpose of this Committee but it was done as part of a process of helping this young person.

G Q Dr Bentovim, you have given that evidence. What I am seeking to clarify is that you will not accept and do not accept that there is any inadequacy to be attached to these notes. I think the answer is clear now.

A I am saying, if you are using the word "inadequacy", I have to say they are not inadequate. If you were to say to me, "Well, might it have been more helpful if this or that?" I would have to say, "Of course it would be more helpful". If we are talking the language of adequacy or inadequacy, in the context of a professional practice, in

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A this context with this particular young person in this situation, I think I would have to accept that this is part of what would be acceptable professional practice.

Q Dr Bentovim, I think you acted for Miss A in the care proceedings. I am going to ask you simply to answer this yes or no. The views that you expressed in your reports were in conflict with those of the parents, were they not?

A They were.

B

Q You trained Dr Eastgate, is that right?

A Dr Eastgate trained with me at a particular point quite a number of years ago now.

Q I am going to put it to you in terms so that you can deal with this that you have come to this Committee and given them evidence biased in favour of Dr Eastgate.

C

A I am not biased in favour of Dr Eastgate. It is very difficult for me to be unaware that, sadly, I did take a view that was different to the parents. Sadly, that was never tested within the court as to whether my view of the situation or the parents' view, looking at the fullness of it, was judged to be appropriate or not. I am not biased in favour of Dr Eastgate. I stand by the general statement I made, which is that looking at the totality of practice of Dr Eastgate and this unit, it was good professional practice.

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MR TURNER: There is no re-examination.

Questioned by THE COMMITTEE

THE CHAIRMAN: Members of the Committee may have questions for you, Dr Bentovim, as I am sure you know. I have two very quick ones which simply need yes or no answers. The first concerns the use of language and the definition of verbatim. I think I heard you say that you did not see that you would have expected verbatim notes but notes made after the event. To me, notes made after the event are retrospective.

E

A Yes.

Q I understand by verbatim notes, notes which to an extent use the patient's own words and highlight the key information in the patient's own words. Do we use language differently?

F

A I think that what I am making a distinction between are notes which are made literally at the time, therefore accurately recording what the individual is saying, on the basis that even if one attempts to reproduce it some hours later, it cannot be verbatim in the same way, but it obviously attempts to present what the person has said.

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Q That is very helpful because it means the Committee has got to be very clear about what it understands by verbatim before it tries to make any findings of facts.

A Yes.

Q The second thing is this. You referred, in respect to July 19, to a consultant colleague taking over who knew the patient well. This was when Dr Eastgate went on holiday. Is that a matter of fact?

H

A A So sorry?

Q Is it a matter of fact that the consultant who was acting for Dr Eastgate when he went on leave around July 19 knew the patient well?

A I was answering the question hypothetically. I do not have information as to whether the person who took over knew her well.

B Q We do not know but I thought maybe you did.

A I do not.

THE CHAIRMAN: That is very helpful. There are no other questions from the Committee.

Further cross-examined by MISS GLYNN

C MISS GLYNN: Can I ask one question arising from your question? Very briefly, Dr Bentovim: if you look at the notes in this case, as I know you have done, there is no suggestion that any other consultant had anything to do with this patient prior to Dr Eastgate going on holiday, is there?

A Yes, that is correct. I was aware of that.

D MR TURNER: There is nothing arising from that.

THE CHAIRMAN: Dr Bentovim, that concludes your evidence. The Committee is very grateful for coming to assist.

(The witness withdrew)

E MR TURNER: The very last point raised is something that I hope to be able to address with the witnesses first thing on Monday morning. I have two witnesses who are primarily character witnesses I intend to call. It will be very brief. One of those may be able to assist with that last point.

THE CHAIRMAN: We will have closing submissions on Monday and I wondered, Mr Turner, if it was possible for you to advise the Committee how long your closing submission is likely to be.

F MR TURNER: It is extremely difficult to tell because I have to factor in the evidence we have heard today. I should have thought probably an hour to an hour and a half. I appreciate that the Committee are well aware of the headline points from the submissions that I have already made.

G THE CHAIRMAN: I think the Committee would like to set a clear limit on the length of the closing submissions, but they would want to set a reasonable limit and to give the same time to both counsel.

MR TURNER: Of course one does bear in mind that my learned friend had the opportunity of opening the case.

H THE CHAIRMAN: That is perfectly correct.

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I will turn to the Legal Assessor and ask if he could advise on what would be reasonable and help us to finish the case on Monday.

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THE LEGAL ASSESSOR: I am inclined to think, Chairman, that it may be necessary to wait till Monday morning to decide this matter because, as Mr Turner says, he needs to factor in to what he is going to say on Monday the evidence that has been given this afternoon. I would also like to inquire of Miss Glynn how long she things she will be.

C

MISS GLYNN: One of the topics I was going to raise before we depart this afternoon is what it is that the Committee would be most assisted by. In some of these cases the Committee asks for references to transcripts, for example, where they might find the evidence to support the various heads of charge. Sometimes the Committee asks simply for those references; sometimes the Committee will ask for those references to be read out to them. I am very much in the Committee's hands as to what the Committee would find most useful. I was proposing to go through the heads of charge and direct the Committee's attention to the relevant passages in the transcript, without reading them, but simply to show you where they are, so that your finding of fact would be assisted.

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THE CHAIRMAN: That would be extremely helpful. This would really amount to skeleton arguments. Is that right?

MISS GLYNN: Yes. As long as the Committee would not mind it being very skeleton and perhaps not too beautifully typed, certainly the Committee can have a skeleton argument from me.

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THE CHAIRMAN: It is very helpful just to tick things off as one goes through. Then the Committee can stand aside and look up particular pieces if we need to as we come to our determination. Mr Turner, would that be acceptable to you?

MR TURNER: It would, yes.

F

THE LEGAL ASSESSOR: Will there be statements from the two witnesses who have been referred to as principally character witnesses?

MR TURNER: There will be, yes.

THE LEGAL ASSESSOR: So they could be dealt with by handing in statements at the beginning.

G

MR TURNER: Yes.

THE LEGAL ASSESSOR: That might save a little time. I do have the time in mind. Perhaps the Chairman could ask you on Monday morning for a time from each of you and then set a timetable with a view to finishing on Monday.

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MR TURNER: Certainly I think that is what we are all keen to do.

A THE CHAIRMAN: I think it is what the Committee is absolutely determined to do! One member of the Committee has a train which does not get in until just before nine o'clock, so I think we had better say 9.15 on Monday. Thank you very much.

(The Committee adjourned until 9.15 a.m. on Monday 8 September 2003)

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