



**SERIOUS CASE REVIEW**

**PAUL JAMES SMITH**  
**(Date of birth: 8.1.86)**

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## INTRODUCTION

### 1a) Background

On 28 December 2003 Mr & Mrs Ian Smith hosted a large party which included Mr & Mrs Nigel Smith and their children, including Paul Smith then aged almost 18. (Ian Smith and Nigel Smith are brothers – see genogram.) Also at that party amongst many others were Mr & Mrs Graham Storrie and their daughter Rosie May then aged 10½. At approximately 9.20pm Rosie May was discovered lifeless in one of the bedrooms and after being rushed to hospital she was pronounced dead some hours later.

On 29 December 2003 Paul Smith was arrested and he was initially charged with grievous bodily harm and then three days later he was charged with the murder of Rosie May Storrie.

At Nottingham Crown Court in November 2004 Paul Smith was found guilty of murder and was given a life sentence with a tariff of 14 years.

During the course of the Police inquiries undertaken following the murder, it emerged that there had been three previous alleged incidents, one of which was used in the Rosie May Storrie murder trial. Only after the conviction of Paul Smith could the Judge reveal the existence of the other two incidents.

### 1b) Terms of Reference

“When a child dies, and abuse or neglect are known or suspected to be a factor in the death . . . the ACPC should always conduct a review into the involvement with the child and family of agencies and professionals.”

(Working Together To Safeguard Children 2006, para. 8.2)

The purpose of Case Reviews is to:

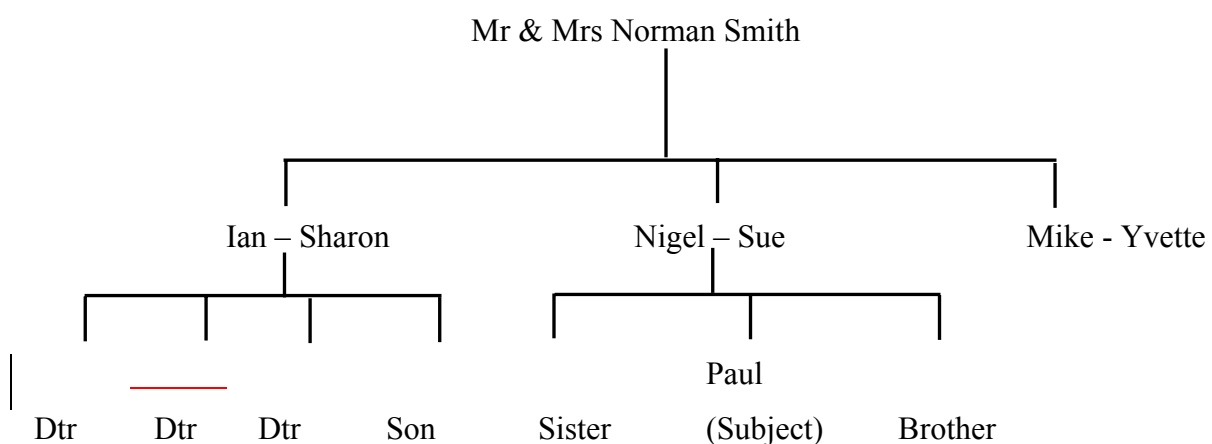
- establish whether there are lessons to be learned from the case about the way in which local professionals and agencies work together to safeguard children
- identify clearly what those lessons are, how they will be acted upon, and what is expected to change as a result; and as a consequence, and
- improve inter-agency working and better safeguard children

(Working Together To Safeguard Children 2006, para. 8.3)

It is absolutely clear that the terms of reference given to the Review Panel by the Lincolnshire Area Child Protection Committee are, as stated above, to analyse the involvement of agencies in the life of Paul Smith and his family; and to establish whether there are any lessons to be learned from this tragedy. It is not the brief of the Panel to re-investigate the case or to become enmeshed in the dynamics of the respective families of the victim or the perpetrator.

Nevertheless, the alleged antecedent incidents play an integral part in helping the agencies to understand how family relationships and friendships can impact on the reporting to and involvement of professionals. In particular the Review Panel has attempted to analyse whether there were any early warning signs or any patterning in Paul's behaviour known at the time; and, if so, whether the agencies took due account of this behaviour. Therefore to a limited extent, these previous alleged incidents do have to be discussed. The Panel has experienced considerable difficulties in attempting to reconcile very different perspectives and interpretations portrayed by the various family members. However, as the Panel's role is to understand how agencies can encourage the reporting of concerns raised by families and communities (and to make recommendations on how agencies can work together to safeguard children and young people) the ambiguities surrounding these events have not prevented the Panel from fulfilling its role.

c) Genogram



Paul Smith is the middle child of Nigel and Sue Smith. Nigel Smith, in turn, is the middle of three sons of Mr & Mrs Smith Senior. All four family groupings live in villages within a few miles of each other; but Ian and Sharon Smith and their four children are now alienated by recent events from the other three groupings.

1d) Process

A Scoping Meeting was held by Lincolnshire Area Child Protection Committee on 25.2.05 following a series of discussions and correspondence between Leicestershire and Lincolnshire ACPCs (nb: the county boundary divides the villages where the murder took place and in which the victim and the perpetrator lived, although the villages are in very close proximity to each other).

Arising from that meeting a Serious Case Review Panel was formed and an independent Chair was appointed as follows:

Paul Tudor, Independent Chair  
Sheridan Dodsworth, Education & Cultural Services Directorate  
Det. Supt. Nick Howard, Lincolnshire Police; later replaced by Detective Superintendent Roger Bannister  
Sharon King, Lincolnshire Partnership Trust  
John Simkins, Youth Offending Service  
Alison Kerr, Crown Prosecution Service; later replaced by Colin Chapman  
Robert Wilson, Director of Public Health, West Lincs PCT

The Review has been administered by Bobbi Jones, LACPC Administrator.

The Panel met twice (14.4.05 and 12.5.05) to receive and discuss Management Reviews which had been submitted by the respective agencies. During these meetings it was decided that significant members of respective families and victims should be offered the opportunity to participate in this Review. As a result of our invitations being accepted, Mr & Mrs Storrie made a half-day presentation to a Panel meeting, and members of the Panel met Paul Smith himself (in prison), Paul's parents, elder uncle and aunt, and grandparents; and GE and her parents also met members of the Panel (see Section 2c).

Panel meetings continued through the summer of 2005 and the Panel began discussing early drafts of this report. It was then agreed that, in the light of potential media interest, it was very important to offer the interviewees a consultation/feedback process. Therefore all the above people who were originally interviewed were given the opportunity to meet Panel members for a second time. Additionally, Paul's younger uncle and aunt also met Panel members at this stage.

This Overview Report was presented to the 10.11.05 meeting of the Lincolnshire Area Child Protection Committee and, with a request for minor cosmetic amendments, the report was accepted.

Discussion then took place regarding publicising the report but publication was deferred pending Paul Smith's appeal against his conviction. This situation was resolved ie. the appeal was withdrawn in favour of an application to the Criminal Case Review Commission. (In the meantime the Attorney General and later Paul Smith's lawyer had confirmed that there was no barr to publication.) However, an addendum to the Management Review of a constituent agency of the Local Safeguarding Children Board was received. A resolution has been achieved through further Panel meetings and the report is now presented back to the Lincolnshire Safeguarding Children Board (December 2006).

The Panel wishes to acknowledge with gratitude the considerable contribution made to and support given to this Review by Dr Zainab Al-Attar; she is the psychologist who supports Paul in prison.

## 2 SIGNIFICANT PREVIOUS INCIDENTS

### 2a) JW (Summer 1999)

- i. Paul, together with his brother, was visiting the home of his two cousins in a neighbouring village; and also present was a 12 year old female friend of his cousin. The five young people were playing upstairs.
- ii. In a Police interview for the RMS murder enquiry in 2004 (ie. four years after the events) the female friend described an incident in the bedroom whereby Paul reacted in an unprovoked and unanticipated way. He grabbed hold of JW by her wrists, pushed her back onto the bed, face up, and pinned her down. JW shouted at Paul to get off, but he remained on top, restraining her and then grabbed her between her legs in the area of her vagina. As Paul stood up he grabbed at JW's breasts. Both JW and Paul were fully clothed and the incident lasted approximately 30 seconds.
- iii. In our current interviews for this Review it has been confirmed that the male cousin told his mother of the incident but being of a younger age he did not understand the significance and therefore did not describe it in detail.
- iv. However, a couple of days after the incident the victim had a telephone conversation with an older member of the cousin's family and described the incident in detail; the victim was left feeling shocked and embarrassed.
- v. Two events then followed more or less simultaneously. Paul's uncle consulted his own father (ie. Paul's grandfather) at his place of work. The grandfather's view was not to over-interpret the comments or observations of the young male cousin (then aged approximately 6 years). Meanwhile, the older female cousin made a telephone call direct to Paul who became distressed and the phone was taken off him by his older sister. When this phone call was reported to Paul's father, he phoned Paul's uncle, and there was a heated exchange in which Paul's father was very defensive and denied that anything like this could have happened; the two brothers fell out and didn't speak for several months, with one view confirming the alleged incident and the other view denying its existence. The incident was not reported directly or clearly to any agency but was received obliquely (see paras. viii and ix below).

- vi. At the time of the RMS murder investigation Paul was interviewed about this incident and totally denied it; he has continued to deny it during his prison sentence and confirmed his denial to the Panel members who interviewed him in prison; “it never happened . . . fabricated . . .”.
- vii. In our interviews for this Review Paul’s parents described it as “messing about, clowning around, horse-play, nothing malicious, they were both the same age”.
- viii. At the consultation with the Consultant Psychiatrist on 29.7.99 (see Section 3c) this incident was raised but in the context that it was Paul who was vulnerable and being exploited “lured into an embarrassing situation by the girl”. The Consultant Psychiatrist recommended reading material to Paul’s parents and encouraged them to contact him for another appointment.
- ix. On 29.11.99 Paul’s father wrote to the Headteacher of the school explaining that Paul was being accused by a peer of sexual assault. Mr Smith reported in the letter that the victim had admitted that she had lied and the letter went on to make derogatory comments about the girl. In the second round of interviews, ie. at the consultation and feedback stage, Paul’s father acknowledged that he had misunderstood a comment made by his own mother, and that this report to school was inaccurate.



2b) GW 8.1.02

- i. There was a family tradition of getting together for drinks and nibbles and to exchange presents at birthdays and thus Paul's uncle and cousins went round to the Smith house on Paul's 16<sup>th</sup> birthday.
- ii. During the RMS murder investigation one of the female cousins described that she, then aged nearly 13, and Paul were upstairs watching TV in Paul's bedroom. His mood suddenly changed and he suddenly took hold of GW by her shoulders and pushed her face down onto the bed where he held her for about a minute. She was unable to get away and felt it difficult to breathe. Paul firstly tied her hands behind her back and then blindfolded her, prodding her with a sharp instrument and demanding money. After about 10 minutes Paul released the pressure on her and she got up; she managed to undo her hands and took her blindfold off. GW came downstairs and left the house afterwards. Her clothes had not been moved and she had not been touched under or through her clothes.
- iii. In our interviews for this Review the cousin's mother (ie. Paul's aunt) confirmed that two nights later GW came downstairs as she couldn't sleep, cuddled up to her mother and disclosed the details as described above. It was clear that her daughter had been very frightened but had not said anything immediately as she did not want to cause another family upset. Similarly, Paul's aunt was also anxious about causing another row within the family but yet she was "furious" about the incident.
- iv. There are different versions of what happened next:
  - Paul's uncle is adamant that when he learned of this incident he again consulted his parents who, he told Panel members, advised him not to raise it with Paul's father for fear of another family row and also on the basis that nothing of a sexual nature had been raised
  - Paul's grandfather is equally adamant in denying that Paul's uncle consulted him at all, claiming that he had only recently learned of this allegation which he considers to be totally untrue and fabricated
  - Paul's father claims that he only heard of the allegation in the course of the RMS murder investigation

- v. Paul's aunt told us that her daughter continued to be upset for a few weeks, ie. not sleeping properly and GW was advised and supported to ignore Paul's difficult behaviour and to scream if she was ever in a one-to-one situation that made her feel uncomfortable.
- vi. In the RMS murder investigation Paul totally denied this incident, he has maintained his denial and he did so in his interview with Panel members for this Review.
- vii. Paul's parents and grandparents regard this as a "total fabrication" and claim that Paul was not dexterous enough to perform what is alleged. Circumstantially they point to Mrs S (aunt) not taking the matter further and Mr S (uncle) taking Paul on as an apprentice shortly thereafter.
- viii. The Panel has been unable to formulate agreement between differing opinions on this incident. However, this incident was not reported to agencies in terms of identifying any risk associated with Paul's behaviour; therefore the Panel is satisfied that agencies could not have acted in any other way.
- ix. This incident does highlight that there is a potential impact on family relationships or friendships in deciding whether to refer issues or concerns to professional agencies. The issue of raising awareness within the community of when and what action to take to ensure families receive professional support is considered to be an important recommendation from this Review.

2c) GE (5.6.02)

- i. GE was almost exactly the same age as Paul and they had been “good mates” as they grew up together living in the same road. During the late afternoon of 5.6.02 GE visited Paul who was at home on his own. They had some common interests and they went upstairs to Paul’s room where he wanted to show GE some new darts for his air rifle. He loaded the air rifle and shot a dart into the door frame; he left the room to get some pliers to remove the dart.

Comment

*It is noteworthy that GE used to go on the fields with Paul and his father shooting tin cans, so she was familiar with the air rifle and pellets/darts.*

- ii. On his return GE noted a real change in Paul’s mood, ie. “weird”.
- iii. Paul was holding the air rifle and he told her to get on the floor. She thought he was joking and he repeated the request. The gun was pointed at GE but she did not think he would shoot her. Paul then told GE to lie on the floor but she started to leave the room as she thought Paul was joking. At this point Paul pushed GE onto the bed. He held both of her wrists as she lay on the bed, on her back, trying to struggle free. Paul used plastic ties to bind her hands together before leading her downstairs to the garage and sitting her on the floor. He then wrapped Duck tape around her mouth and head and secured her ankles with plastic ties. GE started to cry. Paul went back into the house leaving GE bound and gagged in the garage. She then heard a vehicle being manouvered on the driveway. The garage door opened and then the vehicle reversed into the garage. GE stood up, and Paul opened the boot; he then drove off. GE considered that Paul seemed distant “as though he was on a mission”. When she asked him where he was taking her he told her to “shut up”. After they were in the car for about two or three minutes she heard Paul say “I’m sorry”, the vehicle stopped and he switched the engine off. Paul opened the boot. GE stated that Paul looked like his normal self again and kept saying sorry. Paul left her there (still bound at the wrists and ankles) and Paul then drove off.

(Police interview of GE 6.6.02)

- iv. When Paul was interviewed by the Police also on 6.6.02 he admitted discharging an air rifle in the bedroom in order to scare GE but did not aim it at her nor intend to harm her. He stated that he did not know why he did the following actions but he got ties from his bedroom and tied GE's wrists, took her to the garage, tied her ankles up and placed tape on her face and hands. He then placed GE in his sister's car and drove off with her in the boot. He drove as far as a playing field where he came to his senses and let GE out of the boot though still tied up. He let her out because he saw a member of the public and knew that she would be safe. He then drove off down a lane and had an accident with a pedestrian. He accepted full responsibility for his actions involving GE and the taking of the vehicle.

(Police interview of Paul Smith 6.6.02)

- v. At the contemporary interview (6.6.02) although Paul states that he did not know why he acted in the way he did, there was certainly some reference to GCSE exams (admitted by GE) and this was a significant issue in causing Paul stress.
- vi. Eighteen months later when Paul was being interviewed in relation to the RMS murder enquiry (Dec 03) he gave an account of GE pulling out a block from her pocket and Paul took this to be a cake of cannabis resin. He held very strong views about drugs as his teacher's son had died a drug-related death and he gave this as his reason for his actions.
- vii. In her interview for this Review GE absolutely denies carrying any drugs. The Panel has established that both GE's clothes and the car were subject to forensic examination and there is no report of any drugs/traces being found.

2d) Commentary on the three incidents

- i. *In relation to the first and second incidents (JW and GW respectively) the Panel has had access to the Police statements of both victims. The Panel has balanced these statements against Paul Smith's total denial of these two incidents.*
- ii. *The Panel acknowledges that there is competing evidence and has had to work within the vehement rebuttals of these two allegations from Paul's parents, grandparents and younger uncle and aunt. The Panel has also noted the family's minimisation, ie. "horseplay and clowning around" (see paragraph 2a[vii]) and "not raising it for fear of another family row" (see paragraph 2b[iv]), and also the attribution of malicious motives across family groupings.*
- iii. *However, there is corroboration from the reports of the older female cousin receiving the disclosure from JW, then phoning Paul and the phone being taken off him by his older sister (confirmed three-ways); and from Paul's uncle speaking to his grandfather in relation to GW (confirmed two-ways).*
- iv. *The Panel has had to look at the relevance of the three alleged incidents and, if they did occur, what lessons are to be learned for the agencies. The Panel has not focused on issues of Paul Smith's guilt or innocence in relation to these three incidents. Whatever the opinions of those involved at the time, relationships and friendships did impact on the decisions made and on the information shared.*
- v. *The Panel does accept that the first alleged incident was relatively minor, ie. 30 seconds, both young people fully clothed. The GW alleged incident lasted 10 minutes and again both young people were fully clothed and no touching under or through clothes. However, the GE kidnap incident (lasting 20 minutes) was obviously much more serious and all three incidents involved Paul pinning the girls down on a bed. Thus the Panel has identified that there was a pattern to the three incidents, but as the first two were not brought to the attention of agencies in a way that identified risk, a pattern could not be determined at the time.*
- vi. *Due partly to the family dynamics and fall-outs and partly to Paul's parents' natural defensive and protective reaction to Paul, it is unfortunate that his incrementally risky behaviour was not identified and that appropriate professional help was not sought.*
- vii. *Furthermore, the Panel believes that there was a significant minimisation and failure to accept full responsibility by Paul's parents of the GE kidnap incident (eg. see paragraph 3f(vi); Mr Smith refused to allow Paul to meet the man he*

*knocked down). Although Paul's father states that he fully informed Mr Storrie of it over a drink in a pub (as they were mutual friends at that time) both Mr Storrie and Paul's uncle have informed the Panel separately that they only heard sanitised and fragmented versions of the incident (Mr Storrie in his home and Paul's uncle at work), ie. that Paul was joy-riding, that GE was sitting in the front seat and that she fell out, etc.*

- viii. *Additionally, Mr Storrie was aware back in 1999 that Paul's father and uncle had fallen out with each other but he did not know of any details, ie. the JW incident.*
- ix. *Thus, in addressing the three incidents, the Panel has identified that very few people within the family/community had full knowledge of all three incidents and no professional person or agency had any specific knowledge of the first two incidents as they occurred. (NB: see paragraphs 2a(viii) and (ix) in which both the Consultant Psychiatrist and the School were informed that Paul had been the victim of being lured into an embarrassing situation and subsequently that the girl [JW] had lied.)*

### **3 AGENCY INVOLVEMENT**

#### **3a) Nil Returns**

The Smith family have had no involvement with Social Services, Probation, SSAFA, or either of the other two Primary Care Trusts (East and West) and Nil Returns have been received from these agencies.

The Police and CPS have submitted full Management Reviews but they both only relate to the 5.6.02 incident and are reflected at Section 4 of this Report as a specific text.

#### **3b) Health (East Lincolnshire PCT, West Lincolnshire PCT and Lincolnshire South West PCT and Hospitals)**

- i. Routine records (from Leicestershire) of Paul's early life, ie. health visiting and GP input from 13 days old to 3 years indicate normal health and development and there is nothing outstanding. At a 2-year developmental assessment it was noted that he had made little progress in his speech; he was referred to a speech therapist and reviewed six-monthly; and by the age of 3½ there was still concern that his speech was not developing though his comprehension was good.
- ii. By the time of a 4-year review Paul had been attending playgroup and receiving speech therapy and there was evidence of improvement. Similarly, by the time he was attending school (from September 1990) Paul continued to receive weekly speech therapy; his parents considered that he was continuing to make progress.
- iii. The family moved into Lincolnshire in 1991 and therefore the GP had to make a new referral for speech therapy.
- iv. At a (Lincolnshire) school medical (aged 6 years 1 month) Dyspraxia is mentioned "obviously has overall difficulties" and there was a recommendation to review him in 12 months. At this planned review (aged 7 years 1 month) no consent letter had been returned and parents failed the appointment; however, for the succeeding 12 months Paul continued to receive regular speech therapy focussing on tongue agility and a report dated 15.2.94 summarises that the period of regular therapy had been very successful "due to the work Paul puts in at home and the support from his teacher at school"; however it was recommended that he needed to maintain this level of work.

- v. GP case notes when Paul was aged 8 refer to slow reading and writing at school, poor concentration, very clumsy, odd gait; and at a speech therapy review (aged 8½) there is a reference to his considerable lack of confidence and high anxiety, both of which have an adverse effect on his speech. A month after this review Mrs Smith expressed her high concern about Paul to the GP and requested a Paediatric assessment. This took place within one month and “Clumsy Child syndrome” was diagnosed (4.8.94). His height and weight were over the 90<sup>th</sup> centile, he had bruises to his arms from falling over and had nocturnal enuresis attributed to problems at school. The GP and the school were informed of this assessment and its outcome.
- vi. Also at this time Paul’s optician considered that he had a permanent reduction in his vision and Paul was awaiting new glasses.
- vii. In the light of the “Clumsy Child syndrome” diagnosis Paul was referred to physiotherapy on 21.9.94 but by 19.1.96 he had still not received any input.
- viii. Meanwhile, at a Speech & Language review, aged 9½ Paul was described as being much more confident about his language skills and he continued to receive specific help at school. Parents failed to attend a Paediatric review on 20.10.95 but a further review three months later was attended.
- ix. The procedure for a Statement of Special Educational Needs was commenced in May 1996 but also in that month a speech therapy appointment was failed and he was discharged from the service. In August 1996 Paul (aged 10 years 7 months) had a multi-disciplinary assessment medical as a contribution to the Statementing processing; his clumsiness had improved, he was discussed with a physiotherapist who gave some ideas and advice but no formal physiotherapy was required; Paul’s speech remained slow and monotonous, he was reported as becoming very frustrated when people didn’t understand him and when he was teased.
- x. Late in 1996 the Special Educational Needs Statement was confirmed and two hours of Learning Support was granted.
- xi. During 1997 and 1998 Paul suffered wheeziness and shortage of breath; he was prescribed an inhaler for asthma but did not use it regularly. There was another medical review on 2.10.98 (Paul aged 12 years 9 months) accompanied by his father. It was concluded that Paul was making good progress although his confidence and self-esteem were still low. “Dad is excellent and promoting support at home”. It was decided that no further medical reviews were required.



- xii. Yet only one month later (12.11.98) Paul presented with his parents to his GP with violent behaviour, swearing, stubbornness, temper tantrums, low self-esteem, no friends.
- xiii. The GP referred Paul to CAMHS (23.11.98) where he was seen by a Consultant Psychiatrist within 6 weeks (see Section 3c).
- xiv. On 27.9.99 Paul (then aged 13½) presented to A&E with a pellet injury to his right foot; he was accompanied by his parents; a pellet had to be removed. The entry in the A&E notes is as follows:
- “Patient states he has shot himself in the foot with an air rifle”
  - “Only uses rifle under parental supervision. He has a 177 air rifle shooting plastic bottles in the garden (lead pellets). Was alone in the garden, mum watching from kitchen window. Paul heard a sound and ended up pointing rifle at ground and pellet went into foot”.
  - “Patient shot himself through right foot with air rifle whilst loading it. Pellet went through shoe and into right foot. Not in discomfort”.

The injuries were considered to be consistent with his account of an accident.

- xv. In their interview with Panel members for this Review, Mr & Mrs Smith acknowledged that Mr Smith took Paul shooting in fields (tin cans) and had a dart/pellet board in the garden. They considered that this activity was helpful to improve Paul’s coordination. They suggested that Paul’s foot injury was a clumsy accident. However, when Paul was interviewed by Panel members for this Review, he was very clear that he had done it deliberately to get himself out of school for a few days. He also confirmed that he spoke to an A&E Officer privately in a cubical. He had not told his parents of the true explanation “as I didn’t want to upset Mum and Dad’s feelings”.

#### Comment

*The Panel suggests that A&E staff should have considered whether this was an incident of deliberate self-harm which raised concerns about Paul's welfare.*

- xvi. Following the diagnosis of Asperger’s Syndrome in December 1999, over the next two years the GP saw little of Paul other than reviewing his asthma. He failed to attend Community Paediatric appointments on 4.10.01 and 4.2.02 and therefore he was discharged.
- xvii. Finally, Mr & Mrs Smith approached the GP shortly after the GE kidnapping incident of 5.6.02; “the family are distraught” and Paul’s parents requested a re-referral to CAMHS which the GP actioned (see Section 3c).

3c) Health (LPT)

- i. Child and Adolescent Mental Health Service (CAMHS) received a referral from the GP (23.11.98 – see Section 3b) requesting that Paul be seen fairly urgently in the light of him becoming physically violent and abusive and avoiding school. Paul and his parents were seen by a Consultant Psychiatrist and a Community Psychiatric Nurse on 5.1.99 and this was quickly followed by letters to the GP and the school and also by the offer of a further appointment for 2.3.99.
- ii. As requested, the school provided reports of Paul’s behaviour and the SEN Statement, Year 7 review and his Individual Education Plan. The 2.3.99 appointment was kept, from which it was decided to offer Paul a series of sessions.
- iii. In addition to the clinic sessions (16.3.99, 27.5.99, a missed appointment on 8.7.99, fulfilled appointments on 29.7.99 and 2.12.99) there is evidence of extensive correspondence to and from the school; a letter dated 3.3.99 offering discussion, a letter dated 18.3.99 expressing concern about Paul’s vulnerability, letters and telephone calls from the school, invitation to school reviews, a letter from the Consultant Psychiatrist to the Special Educational Needs Coordinator (SENCO) summarising Paul’s presentation all within March and April 1999. On 26.4.99 the Consultant Psychiatrist attended Paul’s Special Educational Needs Review, following up the recommendations of the Review by writing to the school SENCO the following day.

Comment

*The Panel particularly wishes to highlight the appointment on 29.7.99 as it included Paul’s brother and sister, together with his father. On the one hand it was a very significant session in describing what were serious incidents occurring approximately fortnightly, eg. Paul kicking, grabbing a knife, etc. On the other hand the psychiatrist was very helpful both to Paul and his siblings in helping them “imagine how it is for Paul”, and discussing distraction and calming strategies. In their interview with Panel members, Paul’s parents spoke very positively of this support.*

- iv. Additionally, the Consultant Psychiatrist referred Paul to a dietician on 7.6.99; the dietician saw Paul on 16.7.99 and gave verbal and written advice. Following a further appointment in December 1999 “Paul has done very well and no further appointments are required”.
- v. The individual sessions with the Consultant Psychiatrist focused on problem-solving, self-talking and relaxation, strategies and encouragement to Paul to attend school.
- vi. When it was envisaged that Paul’s one-to-one assistance at school would end in July 1999 the Consultant Psychiatrist wrote to the LCC (Special Educational Needs) expressing concern at this development and stating that he considered “Paul fulfils the criteria for Asperger’s Syndrome”. Subsequently Mr & Mrs Smith were invited to attend an Asperger’s Syndrome Parents’ Group starting 4.11.99.
- vii. The Consultant Psychiatrist again wrote a supporting letter to the school SENCO following the 2.12.99 appointment, recommending that Paul received an increase in individual support.
- viii. By 18.6.01 the Consultant Psychiatrist had not heard again from Mr & Mrs Smith since December 1999 and therefore discharged Paul.
- ix. On 6.6.02 the Consultant Psychiatrist was consulted by the Police Surgeon when Paul was in custody following the GE kidnapping incident and there was an analysis as to whether Paul was suitable for being interviewed by the Police. The Consultant Psychiatrist’s advice was to carry out a second interview when Paul was calmer and he may be able to express himself better.
- x. A week later parents had approached their GP and requested a re-referral to CAMHS (see Section 3b) and the GP made the re-referral promptly. The referral letter described the kidnapping incident and added that “the family are distraught”. The response from CAMHS was that there was a five month waiting list and an appointment would be sent after an information sheet was completed and returned. The information sheet was indeed sent to Mr & Mrs Smith who returned it, completed, approximately 5 weeks later. They reported that Paul had been involved in several dangerous incidents and was on Police bail.

- xi. On 12.11.02 an appointment was sent for 20.11.02. Parents returned the slip stating that they did not want to take up the appointment and did not require another appointment and therefore Paul was discharged.

Comment

*The Panel is obviously concerned at this 5-month delay in offering Paul an appointment in the face of the serious kidnapping incident (referral 13.6.02, appointment offered for 20.11.02). At that time the CAMHS Team held weekly allocation meetings when all new referrals were discussed and allocated or placed on the waiting list. Records were not kept of who attended the meetings or how decisions were reached; so it is unknown whether the Consultant Psychiatrist who had previously seen Paul and his family was present and it is not possible to check why this referral was put on the waiting list and not given priority.*

*Now there is a Core Referral Group comprising consistent members who respond to referrals; there is a record of who was present at the meetings and also a record of the decisions and the reasons for those decisions.*

*In their respective interviews with Panel members, both Mr & Mrs Smith and then Paul himself were complimentary about the Consultant Psychiatrist's involvement. They found him to be very supportive and particularly helpful in offering insights and strategies to keeping Paul calmer, techniques for handling his emotions and involving the whole family in understanding Paul's difficulties and needs.*

*The Panel considers that Mr & Mrs Smith declining Paul's appointment five months from the referral was a reasonable decision. By November 2002 Paul was commencing his Referral Order under the Youth Offending Service (made on 5.11.02, see Section 3e), had been successfully employed in his uncle's electrical business and had not displayed any further dangerous behaviour.*

3d) Education

- i. Paul attended school on a full-time basis from September 1990; he greatly appreciated the small size of the school, the single class with the same teacher throughout the year. He spoke to Panel members of the support he received from his elder sister and he recalls the Junior school very positively. Nevertheless, his parents and Paul himself acknowledged daily screaming when getting on the school bus, pulling his mother's hair, "because I didn't want to leave her".
- ii. He was referred to Educational Psychology at the age of 6 and an Educational Psychologist visited Paul at school on 7.1.93 (aged 7) and again in March 1993. The purpose was to observe him and to advise staff; a statementing process was not being considered at that stage.
- iii. By the age of 9 (July 1995) he was on Stage 1 support of the SEN, ie. differentiated work, and in September 1995 he had an Individual Educational Plan (IEP). When his IEP was reviewed in December 1995 he was two years below his peers in spelling and reading.
- iv. When the Educational Psychologist had a review/discussion in January 1996 it was considered that Paul was making poor progress despite school support and therefore a Stage 3 meeting was booked for 8.3.96. The result of this was a recommendation for a multi-disciplinary assessment. The Special Needs Teacher had worked with Paul for 18 months and considered that he would benefit from additional support as all resources available in school had been used.
- v. Parents agreed to the SEN assessment (June 1996) which would include a medical examination and a psychological assessment. For this assessment reports were collated from the School Nurse, the Learning Support Service, the Educational Psychologist, the school, the Child Health Service. The outcome in November 1996 was that Paul would receive two hours per week individual support from the Learning Support Service in addition to the support from within school. Reference is also made in the Final Statement to his curriculum being differentiated to meet his needs, small group teaching, classroom support, close liaison between home and school. His reading and spelling ages were now almost three years behind his chronological age.

- vi. It was envisaged that the two hours learning support would cease as he moved to secondary school in September 1997, but at an annual review in July 1997 the provision was retained and the Statement was not amended.
- vii. In his interview with Panel members Paul very graphically described how he was not submitted for the 11+ examination (together with only one other pupil, thus emphasising that he was different) and only three pupils from his Junior school went on to the secondary school; Paul and two girls who, understandably, kept their own company; so he felt very isolated. He also felt very frightened of the crowds in the playground, in the corridors, the regular 50-minute changes of lessons with the consequent regular changes of rooms and teachers.
- viii. Despite one incident in October 1997 in which he hit a girl in the stomach, Paul made quite a good start to his secondary school: “polite and respectful to staff” (October 1997); “coping well in maths . . . coping well in English” (December 1997); “working well in all curriculum areas” (February 1998); “positive and encouraging reports from all staff” (April 1998).
- ix. For his annual review in July 1998 parents were pleased with his educational progress and the decision was that the current provision was appropriate and therefore his Statement was not amended.
- x. Issues during 1998/99 centred on Paul not wearing his glasses, making uncalled-for remarks and he was better when sitting and working apart. There were two incidents in September 1998 involving pushing, retaliating and hitting other boys and a one-day exclusion in November 1998 for using foul and abusive language to a member of staff. However, there were also a lot of positive comments: “likes Geography, the best in the class” (undated ? 1999); “very good behaviour” (March 1999); “all staff commented on how well Paul was working” (April 1999).
- xi. On 6.4.99 the school received a letter from the Consultant Psychiatrist referring to Paul’s delayed developmental milestones, being tearful and fearful and reporting that Paul claims to be the subject of severe verbal and physical bullying at school; parents had reported bruising as a result of this; the Consultant Psychiatrist summarised that he was very worried about Paul’s vulnerability. In our interview for this Review Paul reflected that the bullying was more verbal than physical “a lot of name-calling” and “a lot of damage to my property”. He also reflected on being the scapegoat and indeed taking responsibility for silliness, shouting out,

etc. but actually did these things in order to get sent out of class; he was much happier sitting and working on his own.

- xii. At another annual review of his Statement (May 1999) again the provision was felt to be appropriate and therefore the Statement was not amended. However, five hours of one-to-one assistance was agreed on a temporary basis until the end of the Summer term. This seemed to be effective as Paul was described as very chatty, with a positive attitude and no problems (June 1999). Paul was also given the option of negotiating some time-out whenever he became anxious.
- xiii. Subsequently the five hours of one-to-one assistance was extended until the end of the 1999 Autumn term, with the backing/encouragement of the Consultant Psychiatrist who wrote a letter referring to Dyspraxia and Asperger's Syndrome (see Section 3c). Additionally, Paul's father wrote to the school; it is a letter detailing aspects of Asperger's Syndrome in general and Paul's reactions in particular. It also confirms strategies and contact details (attached at Appendix [i]). On another occasion Paul's mother gave the school some additional information on Dyspraxia and related it to Paul (attached at Appendix [ii]). Moreover, Mr & Mrs Smith have confirmed that they made direct approaches to as many of Paul's teachers as possible. The school have confirmed that they liaised with Education Psychology and received all relevant information from the Consultant Psychiatrist.

#### Comment

*It cannot be established whether there was any advice to teachers on Autistic Spectrum Disorder/Asperger's at the time Paul was in school; but Lincolnshire County Council now provides a Special Educational Needs Administrative Handbook for Schools. It has two specific sections on Autistic Spectrum Disorders; one is "A brief introduction for teachers in mainstream schools", and the second is "Information and advice for Learning Support Assistants working with pupils with an Autistic Spectrum Disorder".*

- xiv. Paul was finding dinner-times a major worry (there are records of pupils complaining of his unkind name-calling) and thus, in order to release tension, he used to walk down to his mother's place of work and either she or his father would

give him lunch and return him to school for the afternoon. This big commitment by his parents continued for a large part of Paul's secondary school career.

- xv. During November 1999 and anticipating the withdrawal of the five hours support in December, Mr Smith requested a formal annual review meeting to address the issue of extending the support. The review was held on 13.12.99 and the outcome was that his Statement was amended in order to continue the five hours one-to-one support.

#### Comment

*Statements focus on learning objectives and this amendment was not necessarily based solely on the Asperger's diagnosis in itself. Statements reflect an individual child's presentation and needs, ie. it is contextual.*

- xvi. Therefore the rationale for the increased level of support was primarily Paul's learning objectives together with the diagnosis of Asperger's; and also to improve his attendance at school; but the Panel has not seen any evidence of significant levels of unauthorised absenteeism, nor of any involvement of the Education Welfare Service. The Panel understands, primarily from Paul and his parents, that the school accepted he may need to leave school and stay away for a day or two if he was stressed.
- xvii. The support continued to be effective "when one-to-one support is available there are no problems"; and the annual review on 19.5.00 confirmed the provision. The aim of the plan included to reduce the effects of Aspergers and to encourage greater participation in the broader aspects of school life.

#### Comment

*Lincolnshire has an Autistic Outreach Service based at four units around the county. All schools can access this service and it is usually done in conjunction with the school's Educational Psychologist. There is no evidence that the secondary school used this consultative service either on an individual or generalised basis.*



- xviii. In September 2000 Paul transferred to the Upper School within his secondary school and he responded well in that Autumn term to firm and fair boundaries but there was a significant problem of homework not being done. In IEP reviews at the end of that term there are some positive comments, eg. “responds well one-to-one, shows a lot of interest” (Electronics), balanced against some negative comments “silly behaviour”, “poor attitude”.
- xix. There is a constant theme of Paul needing one-to-one support otherwise he finds it hard to settle, needing to exercise more self-control.
- xx. Throughout 2000/2001 there is evidence that Paul was constantly reviewed under his IEPs, ie. subject reports half-termly and they continued to be mixed, eg. overall good progress (Tutor Group), behaviour and motivation not a problem, behaves well and sensibly (Science), still prone to silly behaviour if unsupervised (Geography), produces the best work in the group (English), totally demotivated (French).
- xxi. Paul’s SEN Statement was subject to an annual review on 27.6.01; it reported that his attendance had improved and the current provision of five hours one-to-one Learning Support was confirmed as appropriate to meet his needs. He also had a differentiated curriculum and access to the SEN staff/room if he needed to talk or a quiet space.
- xxii. He relished his work experience in July 2001 (with his uncle) and this has been confirmed in the Panel interviews with family members; it gave Paul a target and an incentive for his studies so that he could achieve an apprenticeship with his uncle.
- xxiii. There was a further review on 18.2.02 and the five hours of one-to-one Learning Support continued to help Paul cope with the dynamics within certain groups and differentiated work as and when necessary. Targets included ensuring that Paul was calm and working independently, and practising the entrance paper for the Electrical industry. Mr & Mrs Smith were noted to have very positive comments about the support Paul received, in particular his one-to-one Learning Support Assistant.
- xxiv. Greatly to his credit, in the Summer 2002 GCSE exams Paul achieved the following results:

English	D
Geography	D
Maths	D

xxv. As had been previously arranged, Paul commenced employment with his uncle upon leaving school in June 2002. In addition to his GCSEs, he had also passed his JTL exams, thus enabling him to be employed in the electrical industry. (Joint Training Ltd. is the training body for electrical apprenticeships.) There is a significance in the timing of Paul being taken on by his uncle, ie. immediately after the GE incident (see Section 2c) “it will keep him occupied” (Paul’s uncle). This was clearly the best option for Paul but complicated the family dynamics, ie. his aunt and uncle were now also his employers. Nevertheless, reports from all members of the family (Paul’s parents, aunt and uncle and grandparents) confirm that Paul worked hard and was learning his trade well in the company.

3e) Connexions

- i. On 4.3.00 Paul was present in a classroom group work session on career planning and his annual review of SEN on 15.5.00 included a Transition Plan element “to ensure that he receives relevant information and appropriate specialist help or support as he moves into adult life”.
- ii. Paul had an interview on 27.3.01 from which a career action plan was written. In that interview Paul expressed an interest in becoming a Paramedic in the longer-term but initially upon leaving school the plan was to take a job in the construction industry through family contacts until Paul was old enough to start to train as a Paramedic. The Careers Advisor suggested a college course such as Pre-Uniform Health and Social Care, and also voluntary work, eg. St John’s Ambulance or at the hospital. The Careers Advisor sent information to Paul about two relevant courses at two separate colleges and also advised him about contacting the Volunteer Bureau.
- iii. There was further classroom group work in which Paul completed a questionnaire on 6.6.01 and his SEN and Transition Plan was further reviewed on 11.6.01. The plans were confirmed as joining his uncle’s electrical business but subsequently still hoping to become a Paramedic.
- iv. Further group work and action planning occurred on 12.11.01; the Advisor missed his annual review on 23.1.02; a Year 11 summary letter was sent on 8.7.02 with a request for customer feedback; and on 5.8.02 a Connexions Assistant had a telephone conversation with Mr Smith who provided information that Paul had started an Electrical apprenticeship.
- v. Although there is no evidence in the written records of a computerised careers package, in his interview with Panel members Paul recalls such a package which he described as “degrading”. He also felt that he was told that he was “not capable” when he explained that he wanted to be a Paramedic. The evidence in paragraph (ii) above would appear to contradict this perception.

3f) Youth Offending Service

- i. Paul was previously unknown to the YOS until his first Court appearance in Grantham Youth Court on 7.6.02. From that date there was then a series of adjournments through July, August and September 02. As will be discussed in Section 4 the kidnap charge was discontinued at the 12.7.02 hearing and right up to his trial Paul was pleading not guilty to the dangerous driving charge.
- ii. However, at the trial on 5.11.02 in the Magistrates Youth Court he changed his plea to guilty and a six-month Referral Order was made. (Having discounted a custodial sentence, this was the only option available to the Court in the light of the Guilty plea, no previous offences and the gravity not requiring Crown Court sentencing.) The Court ordered Paul and Mr & Mrs Smith to attend the Youth Offender Panel. This length of Order of six months is a reflection of “medium” seriousness as Referral Orders can be imposed for a period between 3-12 months (see Appendix [iii]).
- iii. Within the Youth Offending Service the case was allocated to a Youth Offending Team Officer to prepare a report for the first Panel meeting (27.11.02) and also to a seconded Police Officer to prepare a Victim Impact Statement (ie. in relation to the man who was knocked down). Both these members of staff made two home visits each respectively to Paul and his family and to the victim. An electronic check revealed no Social Services involvement; CAMHS were contacted and stated that no work was ongoing; and Paul had left school several months earlier.
- iv. In relation to Paul, the responsible officer completed the ASSET, National Standard Assessment and Paul himself completed the Youth Justice Board standard “What do you think?” self assessment. He was assessed as presenting a low-risk of reoffending. In relation to the victim, the Police Officer visited to prepare a Victim Impact Statement and it emerged that the victim requested a face-to-face meeting and an apology.

Comment

*At one level the Panel considers that this work was very efficient, ie. two allocated workers, two visits each, assessments*

*and reports within two weeks of allocation. At another level there were limitations in this assessment as it drew solely on information from Paul and his parents, ie. self-reporting. The reliance on self-reporting which appertained at the time under review has since changed and other information sources would now be accessed. However, realistically, there were no other current available sources, ie. he had left school six months earlier, he was not known to Social Services, and CAMHS had closed the case almost three years earlier (December 1999).*

*Albeit that the conviction of dangerous driving was the only charge against Paul, the officer did have access to the Police statements relating to the kidnapping, even though these charges were dropped. Now, under new guidance and procedures, an additional Risk Of Significant Harm assessment would be completed; but three years ago this would not have been expected on a charge dropped by CPS and where there was not a full admission by Paul or his parents.*

- v. At the Lincolnshire Youth Offending Panel meeting on 27.11.02 Paul and both parents attended and the Panel considered both reports. The outcome was a Youth Offender Contract signed by Paul, his parents and the Panel. The Order contained several elements: victim awareness work, indirect reparation work, stress management, and sessions with the Driving Standards Agency and the Ambulance Training Service. Mr & Mrs Smith indicated that they were considering “what if anything” they would do or say in response to the victim’s request for a face-to-face meeting.
- vi. Relating to this last item, in interviews with this Review’s Panel members, Mr Smith told us he refused a meeting because he considered that it would have caused Paul too much stress and he refused to write a letter of apology partly because of the victim’s attitude and partly because he did not consider that the letter would remain confidential. Paul repeated to us his father’s attitude “I didn’t want to meet the man or write a letter of apology because he had lied about the bike”. (NB: there is disputed evidence as to whether the man was riding a bike or not.)

- vii. The Responsible Officer visited Paul at home to explain the contract (4.12.02) and to carry out victim awareness work (19.12.02 and 27.12.02). It is very interesting to hear Paul's perception of this "it was degrading to have to talk about it so much with the YOS so many times; I was ashamed of it; it really got through that I had to change my behaviour". An example of the Victim Awareness work appears at Appendix iv.
- viii. Due to the sick-leave of the Responsible Officer the case was re-allocated promptly and the new officer (who had previous experience of working with young people suffering with Aspergers) phoned Paul on 7.1.03 and introduced himself at a home visit on 13.1.03. A joint home visit was made by the Responsible Officer and a representative of the Reparation Scheme on 24.1.03; the requirements of the reparation element of the contract were explained to Paul; and the Responsible Officer re-introduced the victim awareness work commenced by the first officer; another session was undertaken on 10.2.03.
- ix. Meanwhile, for the reparation element of his Order, Panel assigned Paul to undertake gardening for a disabled couple. He enjoyed this, and upon completion the couple were very complimentary of him and the work he had done. This particular work did not require Paul to face up to his specific victim but there was no choice in this matter as Paul and his father had refused to do so.
- x. A Youth Offender Panel Progress Meeting was held on 26.2.03 and it was noted that Paul had engaged very well during the sessions and had a positive attitude. The victim awareness work had been completed and Paul had been an active and willing participant.
- xi. The first Responsible Officer returned from sick-leave and made a home visit on 10.3.03 to discuss the other elements of the contract. Paul told us that attending the Driving Standards Agency had had a big impact on him, ie. being shown horrific injuries. She made further home visits on 31.3.03, 29.4.03 and 12.5.03 to undertake work on recognising and managing stress.
- xii. The final meeting of the Lincolnshire Youth Offender Panel took place on 21.5.03. It was considered that all elements of the contract had been completed (except the letter of apology to the victim – see paragraph vi

above). The Panel noted a positive and successful Order “well received, useful, gained a great deal”. The Panel Leader noted “Paul was able to relate his contract experiences in an articulate and intelligent way”. The conclusion of the Panel Meeting, together with the completion of the Order, were confirmed in writing to Paul the following day.

- xiii. Even though he acknowledged that he had been initially resistant, Mr Smith confirmed to us that “it worked and did Paul good”; and Paul’s own summary to us was “it was punishment but helpful to talk through the problems”. Given that the victim had not had his request for a meeting or a letter met, he was given feedback on the work undertaken by Paul upon the Order’s completion.

## 4 THE DECISION NOT TO PROSECUTE IN JUNE 2002

- 4.1 This section will cover the involvement of the Police and the Crown Prosecution Service and will also make reference to the E family. However, both the production of the CPS Management Review and the work of the Panel to produce the Overview Report have been significantly hampered by the destruction of the CPS file after 12 months.

### Comment

*At the time of this case (June 2002), CPS policy was to retain prosecution files in most cases for 12 months after they were finalised in the Magistrates Court, including those cases discontinued in either the Magistrates Court or the Youth Court.*

*However, then (as now), the CPS recognised that certain files required retention for a longer period of time because of potential greater public interest in their longer term storage. CPS policy required that such files are sent by the local CPS area to the national CPS Records Management Unit (RMU) for longer term storage for a period of 25 years. Along with offences such as murder and manslaughter, the offence of kidnapping is included in the list of cases requiring longer term storage and includes those cases in which such an offence is discontinued.*

*The CPS therefore accepts that, in relation to the case of Paul Smith in 2002, it did not follow its file retention policy as the file should have been sent to the RMU for long term retention for a period of 25 years. This did not happen and the file was therefore mistakenly destroyed after a period of 12 months.*

*CPS file retention policy is currently being reviewed nationally in the light of new CPS responsibilities for charging under the Criminal Justice Act 2003. The review will shortly be completed and is likely to result in all CPS files being retained for a longer period of (probably) 5 years.*

- 4.2 On the basis of the road traffic accident on 5.6.02 in which Paul Smith, having released GE, went on driving at excess speed and knocked over a man who may have been astride his bicycle at the time, Paul presented himself to the local Police Station and made a voluntary confession.



- 4.3 At 10.10pm he was arrested, initially on the suspicion of Taking Without Owner's Consent; he was taken to Grantham Police Station and subsequently detained over night.
- 4.4 Following his interview during the afternoon of 6.6.02 in the presence of a solicitor and his mother, at 6.40pm on 6.6.02 he was charged with kidnapping and given police bail to appear at Grantham Magistrates Youth Court the following day (7.6.02). There were residence and curfew conditions. There is no record either from the Police nor from the CPS of any consultation/correspondence/ telephone call about the charging.

#### Comment

*At that time there was no requirement on the Police to consult CPS at the point of charging; but now there is such a requirement on the Police to seek pre-charge advice on cases of this seriousness (the Criminal Justice Act 2003). The Statutory Charging scheme (which applies on a 24-hour, 7-day a week basis) took full effect in Lincolnshire from 14 November 2005. Indeed, CPS lawyers are now based in Police stations to facilitate this process.*

- 4.5 Enquiries continued into the road traffic accident and witness statements were taken, leading to Paul Smith being additionally charged with Dangerous Driving on 18.6.02.

#### Comment

*Throughout our interviews there has been a dispute about whether the man involved in the road traffic accident was on a bicycle or not. In his original Police statement Paul had "no knowledge of the accident with the bicycle" and in a psychological report it is stated that Paul reported "a lack of memory from his earliest movement from the bedroom to the garage and later the details of the collision with the cyclist". The Panel is inclined to accept the explanation of no memory rather than the subsequent denial that the man was a cyclist.*

- 4.6 For this Review it has been established through interviews with relevant staff that the Detective Constable who was in charge of the investigation had a meeting with the CPS lawyer on 18.6.02. The Detective Constable (now retired) is unable to recall the substance of the meeting and has no notes. At the very least the meeting must have

covered the issue of Dangerous Driving as Paul Smith was charged with this offence later the same day. In this meeting there was almost certainly additional discussion about the kidnap charge because shortly after the meeting and on the same day the DC visited Mr E to take a statement (see para. 4.11).

### Comment

*Unfortunately there is a contradiction in the evidence; the Detective Constable recalls his colleague, a Detective Sergeant, being with him at this meeting. However, the DC's pocket book does not support his recollection. The Detective Sergeant has no recollection of such a meeting and there is no entry of such a meeting in his pocket book.*

*The Panel understands that it would be normal and acceptable practice for the DC managing the case to speak to the CPS lawyer without specific supervisory oversight. It would be up to the DC to bring to the DI's attention any issue deemed serious enough to do so.*

*However, there is an extra dynamic in this situation, ie. the DC had initially represented the view of non-prosecution based on the victim's wishes but he had been overruled by his senior officers, ie. the DI/DS who made the decision to charge Paul with the kidnapping.*

- 4.7 The Detective Constable spoke to the CPS lawyer again, this time by telephone, on 20.6.02 and again the Detective Constable has no note about the content of the telephone call and, obviously, as the CPS file has been destroyed, any CPS record cannot be accessed. The Panel suggests that it is highly likely that the Paul Smith case in general and the kidnapping charge in particular was discussed in this telephone call because it was only the following day (21.6.02) that the CPS sent a letter to the Police. This document was a formal Notification of Discontinuance of the kidnapping charge as it was deemed not to be in the public interest to proceed.

### Notice of Proposed Discontinuance/Notification of Discontinuance

- 4.8 *Two very distinct views are held on this matter. The Police view is that the Detective Inspector and Detective Sergeant would have expected the CPS lawyer to submit a Notice of Proposed Discontinuance to either of them if she was proposing to discontinue the kidnap charge. Moreover, if the Detective Constable had been given any such Notice of Proposed Discontinuance he would have been expected to bring*

*such a Notice to the attention of his supervisor/manager. Such a Notice would then have given an opportunity for comment/challenge and this would have been a helpful fail-safe. No such Notice was served but it is confirmed that there was a verbal discussion on 18.6.02 in which the CPS lawyer gained the clear view that “the Police” (ie. through the Detective Constable) were in agreement with the decision to discontinue.*

4.9 *The CPS confirm that no Notice of Proposed Discontinuance was served. The CPS view is that there was no requirement to do so because the protocol (at that time) between the Police and the CPS confirmed that where there was agreement between the two agencies that discontinuance was the correct course of action, a Notice of Proposed Discontinuance was not necessary. Hence the CPS lawyer went straight to a Notification of Discontinuance because she was satisfied that she had Police agreement at the meeting of 18.6.02.*

4.10 *The CPS also assert that Notices of Proposed Discontinuance were routinely issued at the time to the Investigating Officers in cases and not to their Senior Officers. Senior Officers would only become involved if there was dissatisfaction with the proposed decision.*

4.11 The decision to discontinue was subject to a statement being obtained from the victim's family confirming their agreement to this course of action. The Panel has seen evidence of the statement written by the Detective Constable and signed by Mr E, dated 18.6.02. The text of the short statement supports his daughter's view that she did not want to see Paul Smith prosecuted and states that he himself (Mr E) “does not want any prosecution in this matter”. The Detective Constable has been contacted specifically on this matter and recalls that he visited Mr E on 18.6.02. The DC's pocket book entries confirm this meeting (at Mr E's place of work) shortly after the DC's meeting with the CPS lawyer.

#### Comment

*Mr E has a clear recollection/impression that by the time he signed his statement on 18.6.02 the decision to drop the charge had already been taken.*

4.12 On 21.6.02 the CPS Notice of Discontinuance was sent to the Police where it was received the same day by the Criminal Justice Unit (CJU) and by the Crime File Unit

on 24.6.02. The Notice gave the reason for the decision as “not in the public interest”; but the dangerous driving charge was to continue.

### Comment

*The Panel can find no evidence of a response/complaint to the notice and the Panel is satisfied that senior officers ie, the Detective Sergeant and the Detective Inspector were not consulted at all. The Police view is that if the Detective Constable had indeed discussed the discontinuance with the lawyer or even if he had heard a reference to it, he should have discussed this with a senior officer.*

*The Panel does accept the viewpoint in the Police Management Review that a Detective Constable would not have had the delegated authority to persuade the CPS lawyer, as the decision to charge was at Detective Inspector status. However, the dynamic between the DC and the CPS lawyer (as discussed above) led them to an agreement on the decision not to continue the charge.*

*The CPS lawyer recalls that the DC agreed with her decision. She had no reason to suspect that the Officer was not acting in accordance with the views of his superiors, nor that he did not have the authority to agree to the course of action proposed.*

*The Panel suggests that it would have been helpful if the senior officers (DI and/or DS) had tracked the case more closely. However, the pre-charge advice scheme (see paragraph 4.4) will ensure that this circumstance will no longer arise.*

4.13 A file note on 12.7.02 confirmed that the discontinuance of the kidnap charge was acknowledged at Grantham Youth Court on 12.7.02. During August 02 there was correspondence between the CPS, the CFU and the CID regarding the dangerous driving (for which Paul Smith was pleading not guilty) being changed to a charge of Careless Driving (to which Paul Smith would plead guilty). The Police concurred with the proposed change of charge.

4.14 However, on this occasion, the CPS decided to maintain the dangerous driving charge and, after further adjournments, Paul Smith appeared at Grantham Youth Court on 5.11.02 and pleaded guilty to dangerous driving. The explanation offered by Mr

Smith to Panel members in interview to Paul pleading guilty is that he did not want to have to face the victim (ie. the man he knocked over) in Court.

### The Process of the Decision-Making

4.15 The CPS Management Review states that key to the decision not to prosecute Paul Smith for kidnapping was the information that the victim herself and her family did not wish to proceed and did not want action taken against the defendant. The Panel has seen the relevant parts of the video-interview GE gave to the Police on 6.6.02 and also the record of the interview of GE. It does indeed confirm the following: "We were not going to report it to the Police . . . I do not think punishment is in order . . . he needs professional help . . . I do not want to see him prosecuted". However, GE confirms in her interview that she was frightened by the air rifle and that she would be prepared to go to Court if necessary.

4.16 The Code for Crown Prosecutors states that when considering the public test, Crown Prosecutors should always:

"take into account the consequences for the victim of whether or not to prosecute and any views expressed by the victim or the victim's family".

4.17 *There has been a great deal of media reporting and speculation by a number of parties that Mr & Mrs E were driving the decision, eg. "Parents decided not to pursue it", "Mr E did not want GE to have to give evidence in Court". The speculation regarding Mr E protecting GE from having to give evidence is something of a "red herring". The case may well have proceeded without GE being required to give evidence as Paul Smith had already admitted it in his statement. Whilst it is entirely valid for the Police to ask the victim/witnesses for an **opinion** and for the CPS to take account of this **opinion**, the victim/witness can take no responsibility for the actual **decision** which remains the responsibility of the CPS. Although the CPS Management Review has used the phrase "key to the decision . . ." the Panel accepts that the CPS have never attempted to burden the E family with this responsibility; this has arisen from the way the media have reported the matter.*

4.18 The E family had no direct contact with/from the CPS. That was normal practice at that time; information from the family would be through the Police. However, nowadays (since November 02) the CPS have a responsibility to contact the victim if

a charge is dropped or significantly reduced and in this context in serious cases a meeting is offered.

4.19 The E family reported to the Panel that they were never formally notified of the discontinuance and only found out much later. There is indeed no documentary evidence from the Police that the E family were informed of the CPS decision.

4.20 A review of cases by the CPS requires a two-stage process; the first being evidential and Paul Smith had made an admission statement. The second stage is that of the Public Interest factors as laid down in the Code for Prosecutors. The Panel has studied this Code in general and the Public Interest factors in particular (both for and against prosecution). The relevant pages appear at Appendix vi of this report. The Panel draws attention to paragraph 5.11 " . . . is not simply a matter of adding up the number of factors on each side . . .".

4.21 The Panel suggests that the most relevant factors in the decision-making process (both for and against) based on the Code are:

- a conviction likely to result in a significant sentence (para. a, page 8)
- a weapon was used or violence threatened during the commission of the offence (para. c, page 8)
- the victim of the offence was vulnerable, has been put in considerable fear or suffered personal attack, damage or disturbance (para. i, page 9)
- there are grounds for believing that the offence is likely to be continued or repeated, for example by a history of recurring conduct (para. o, page 9)

4.22 Although the following factors are not direct quotations from the Code, the CPS Management Review makes it clear that they were significant in the decision-making process:

- the continuance of the driving charge was likely to lead to the same outcome in sentencing and in professional support
- no previous criminal convictions were recorded against Paul Smith and there was no knowledge of any previous incidents

- that Paul Smith suffered from Asperger's Syndrome and that this would have an impact on sentence; additionally there was a belief that he would be receiving psychiatric help

4.23 The CPS lawyer was senior in grade and had the relevant experience and training to make the decision on their own. At that time it was not a requirement for a lawyer to take advice from a managing lawyer.

Comment

*Systems to this effect have subsequently been put in place by the Chief Crown Prosecutor in Lincoln; and indeed Mr & Mrs Storrie have made representations to the DPP through their MP.*

4.24 Comment

*The Panel has identified that the decision not to prosecute Paul Smith for the kidnapping charge was made within 13 days of the incident (5-18 June 2002) and the action implemented on the 16<sup>th</sup> day, ie. on 21 June, the Notification of Discontinuance was issued (after the CPS had received the statement from Mr E).*

*Whilst it is true that Paul Smith was not previously known to the Police or Social Services and therefore no information could be provided from these sources, this report has highlighted that there was significant historic information held by the School and by CAMHS. Although there was no duty or requirement at that time for the Police or CPS to seek further information, with the benefit of hindsight this information might have been sought and it would have been beneficial to do so.*

*The Panel concludes that there were some deficiencies in the process of the decision-making as described above, but has been hampered in its conclusions by the lack of records. Additionally, the Panel is left with some unresolved questions and issues:*

- *Did the DC (in his representation at the meeting) and the CPS lawyer (in her decision) give sufficient weight to the use/threat of a gun as part of the kidnapping event, and to the process by which the victim GE was tied up (see Section 2c for reference to the victim's statement)?*

- *Was too much weight placed on the victim's (and her family's) views?*
- *Was too much reliance placed on the plan for Paul Smith to receive psychological/psychiatric help; a quick check would easily have revealed that there was a five-month waiting list (see Section 3c)?*



## 5 ANALYSIS AND CONCLUSIONS

### 5a) Impact of Aspergers

- i. When he was aged 13 there is correspondence from the Consultant Psychiatrist to the School SENCO (27.4.99) supporting the notion of providing Paul with social ancillary support “to address his social skills deficit, relationship issues . . . labels like dyspraxia, attachment problems or Asperger’s syndrome will all fit”.
- ii. In further correspondence from the Consultant Psychiatrist requesting a further increase in support given to Paul at school (2.12.99) “the family have developed strategies to help Paul with minor and major conflicts at home”.
- iii. A week later (9.12.99) having just received the diagnosis of Asperger’s Syndrome from the Consultant Psychiatrist, a report states “on longer discussion with dad it is clear that this has been the case right the way through . . . the diagnosis of dyspraxia has to some degree clouded the real issues around Paul’s language and behaviour”. His statement of Special Educational Needs needs amending to include the diagnosis along with some social skills training as part of his statement.
- iv. In interviews with his current psychologist, Paul has described flight or fight responses. An example of flight would be running out of a supermarket due to the stress of a queue, escaping from the classroom if he felt humiliated or if his routine was threatened. Examples of delayed fight responses would be punching a wall or kicking a bin in the school playground. This is consistent with what is known about acting out behaviour in Asperger’s Syndrome (Tantum 2000).
- v. Individuals with Asperger’s Syndrome are often the victims of intimidation and aggression (eg. Paul is self-reported as having been bullied at school) but such victimisation alongside impaired social skills and rigidity of thinking/obsessive preoccupations, may trigger aggression.
- vi. Mr & Mrs Smith gave the school very helpful briefings (see Section 3d and Appendices i & ii); the local Consultant Psychiatrist was regarded by the parents and by Paul himself as being very helpful and supportive with strategies (see Section 3c); and Paul’s current psychologist has prepared a briefing for prison staff which comprises a very practical guide to the definitions of and helpful responses to people with Aspergers (see Appendix v).

- vii. The Panel considers it particularly significant that Paul has acknowledged the sudden onset of his outbursts together with their equally sudden offset, ie. switching or flipping and suddenly flipping back. These characteristics can be seen in the three antecedent incidents, though, of course, Paul has not acknowledged the first two incidents. During such outbursts he describes being tunnel-visioned and unaware of his surroundings or the consequences of his actions (consistent with findings in the clinical literature; Tantum 2003).

5b) The Agencies

- i. The Panel has not identified anything amiss or adverse re: Health or LPT. Indeed, there is considerable evidence of very positive comments regarding the Consultant Psychiatrist who liaised well with the secondary school. The issues of delay in appointments and not recording referral decisions have been addressed and corrected (see Recommendation m).
- ii. Paul and his family were positive about both Junior and Secondary schools and his parents claim a good working relationship with the secondary school. They provided the school with a lot of general and specific information on Paul's conditions. However, there is no evidence that the school made use of the county's Autistic Outreach Service on a consultative basis either generally or specifically. Also, there is no evidence that the staff looked at the overall picture of the school-based incidents reported in Section 3d (even though each incident in isolation was fairly minor) in order to understand or address Paul's behaviour.
- iii. The involvement of the Youth Offending Service (YOS) was generally positive. Paul completed his Referral Order successfully.
- iv. It is clear that no single agency had full knowledge of all three alleged incidents, so opportunities for professionals to identify Paul's incrementally risky behaviour were limited.

5c) The Community

- i. It is evident that the Smith family did not always recognise and/or act upon Paul's incrementally risky behaviour. There is evidence that the third incident (GE) was minimised within the community. In particular Mr Storrie and Paul's uncle and aunt claim to have received a sanitised version of the GE kidnap incident though this is disputed by Paul's parents. If there had been less protectiveness and

defensiveness and more honesty with family and friends about Paul's increasingly risky behaviour problems, not only might he have received appropriate professional help, but those coming into contact with Paul would have been alerted.

- ii. Far too much onus has been placed – inappropriately and mainly within media reporting – on the E family. Phrases such as “they did not want Paul Smith criminalised”, “they wanted him to receive help”, “they didn’t challenge the decision”, “the Police could/should have advised them” are loaded and largely irrelevant for the reasons stated in Section 4, ie. Paul Smith had already admitted the charge and the decision to discontinue was that of the CPS.
- iii. The Panel understands that there continues to exist some very fraught dynamics between various factions in the neighbouring villages, with polarised positions being taken regarding Paul's guilt or otherwise.
- iv. The public, individually and as a community, have responsibilities (moral, not legal) to report, consult, take advice on behaviour and incidents which present a risk to children. In order to ensure this, all agencies and services need to review their strategies on making themselves available and user-friendly and on increasing public awareness of child protection.

5d) The CPS Decision

- i. Due to neither the JW incident (Summer 99) nor the GW incident (8.1.02) being brought to the attention of any agencies in a direct way, the CPS decision regarding the GE incident (5.6.02) was taken as if it was an isolated incident.
- ii. The Panel has queried whether the move from a serious charge (ie. kidnapping) to no charge on public interest grounds is unusual. The Panel notes that the Code for Crown Prosecutors states that "The more serious the offence, the more likely it is that a prosecution will be needed in the public interest" (Paragraph 5.9). Clearly the offence of kidnapping is a serious one. However, the Panel has been informed that the CPS does decide not to prosecute cases on public interest grounds even where there are serious charges; and that each case is considered on its merits and on the particular circumstances of the case.
- iii. The Panel has had the advantage of hindsight and of analysing and debating the information that is known now. Nevertheless, even based on the information

which was known, believed or assumed at the time, it is the Panel's view that the decision-making process was deficient in several ways.

- iv. The CPS lawyer had gained the clear view that the Police were in agreement with this decision. The Detective Constable who had represented the victim's perspective against prosecution had been overruled initially by his senior officers who decided on charging Paul with kidnapping. Subsequently the Detective Constable had discussions with the CPS lawyer and gained a further statement from the victim's father. He did not report back to his senior officers on the verbal plan to discontinue the charge.
- v. No Notice of Proposed Discontinuance was served and therefore the matter was not procedurally brought to the attention of the Detective Inspector or the Detective Sergeant. The Police view is that it would have been better practice for the CPS to serve a Notice of Proposed Discontinuance in order to elicit further comment from senior officers within the Police. The CPS view, very strongly held, is that there was no requirement to serve a Notice of Proposed Discontinuance because the lawyer was clear that she had Police agreement.
- vi. However, the Statutory Pre-charging Advice scheme which came into full effect in Lincolnshire on 14 November 2005 means that in similar circumstances there would be full pre-charge consultation between the Police and the CPS and therefore the situation which arose in June 2002 could not be repeated.
- vii. The Panel has seen no evidence, either from the Police or CPS, of any specific consideration being given to possible charges relating to the air rifle. We note the context of the air rifle being familiar to both Paul and GE; and, according to her own statement, although she was frightened by it, she did not think that he would shoot her.
- viii. If Paul had been prosecuted for the kidnapping he would possibly have been sent to Crown Court for sentence. Whichever court he would have appeared in, there would undoubtedly have been pre-sentence reports ordered and these would probably have included a psychiatric report, which would have been of considerable benefit at that time.

## 6 RECOMMENDATIONS

### Safeguarding Board and Children's Services

- a) Both the new Local Safeguarding Children Board and the new Children's Services must ensure that there are robust strategies in place for promoting communication with the community, based on Every Child Matters and on What To Do If You Are Worried A Child Is Being Abused. These strategies should target awareness-raising and ensuring that services are user-friendly and available, eg. the Customer Relations Unit.

### CPS

- b) Regarding Lincolnshire's new policy whereby a lawyer must consult a managing lawyer on all indictable only cases:
  - i. Monitor and audit this new policy
  - ii. Make representation that this new policy should be put on a national basis.
- c) In all cases involving dangerous incidents to young people, the CPS must always serve a Notice of Proposed Discontinuance if that is the proposal. (NB: This recommendation has been somewhat overtaken by the Statutory Charging Scheme implemented in Lincolnshire from November 2005.)
- d) The CPS file retention policy is being reviewed; even if files cannot be retained because of storage facilities, at least the front cover with its running notes should be retained for three or five years. Subsequently CPS to carry out an audit to ensure compliance.

### CPS/Police

- e) In all serious/significant cases consider making enquiries of School, Health, etc. to ascertain any relevant background information.

### Youth Offending Service

- f) Ensure best practice in drawing on wider information sources when completing an assessment.

- g) The Youth Offending Service Management Group to ensure that the new risk of serious harm procedures are fully implemented by the service across the county. Where there is a concern emanating from ASSET or other sources of risk of serious harm a full risk assessment must be undertaken and discussed with the YOS Line Manager. Discussions must be recorded by the manager on YOIS.

#### Accident & Emergency

- h) For all children who present to Accident & Emergency departments with an injury, the discharge summary to the patient's general practitioner should state how the injury was alleged to have occurred.
- i) Accident & Emergency staff must always consider raising with their Safeguarding Advisor concerns about the welfare of children and young people in the circumstances of a young person self-harming. They should also consider invoking the Self-Harm protocol.

#### Education

- j) All schools attended by a pupil with Asperger's need to give close and detailed consideration to the subtleties of the condition, eg. body language, hidden communication, etc. They would benefit from consulting the Autistic Outreach Service.
- k) The Individual Education Plans for pupils with Asperger's should reflect considerable flexibility in their one-to-one support, eg. lesson changes, sports, assemblies.
- l) In addition to the existing Handbook containing a brief introduction for teachers and information for Learning Support Assistants, schools should be provided with a "crib-sheet" for all staff, such as that which appears at Appendix v.

#### CAMHS

- m) An audit across all CAMHS teams that they have a core referral team with consistent membership and clear records are kept of how decisions are made. If these requirements are not in place, ensure that they are put in place.
- n) CAMHS Primary Mental Health workers to include modules on Autistic Spectrum Disorder/Asperger's on their rolling programme for all Tier 1 workers.

## Appendices

### PDF files

Appendix 1 – 3 pages

Appendix II – 3 pages

Appendix III – 2 pages

Appendix IV – 1 page

Appendix V – 3 pages

Appendix VI - 4 pages

## Appendices

### PDF files

Appendix 1 – 3 pages

Appendix II – 3 pages

Appendix III – 2 pages

Appendix IV – 1 page

Appendix V – 3 pages

Appendix VI - 4 pages



2-9-99

Please find enclosed copy detailing Paul's Condition and likely reactions.

We intend Paul to return full time in the New term.

Dinner break is one major worry and we are trying to sort that out.

I hope you and the other members of staff find the information useful, because at the moment it is still a delicate situation.

Many Thanks,

Roger Jones

Re Paul Smith 9 Flinders.

Paul has been diagnosed as having Aspergers Syndrome, this is a mild form of Autism.

Autism is a developmental disability. A person with Autism will have significant difficulties in several areas of their development. The areas most affected are Communication, Social Interaction and Behaviour.

This development disability may have a particular pattern called Autism or there may be varying amounts of disability in other areas of development which result in patterns called Aspergers Syndrome or Persuasive Development Disorder.

The best way to help a person with Aspergers Syndrome is to understand how the following three areas of difficulty affect their view of the world.

#### COMMUNICATION

Affects the ability of a person to understand the meaning and purpose of body language and the spoken or written word. Words can be misunderstood, interpreted literally or not understood at all. Other peoples (Pupils) feelings and emotions can be difficult to understand.

#### SOCIAL INTERACTION.

Social interaction is an essential part of life for most people. For some people particularly adolescents being sociable is difficult, scary and very confusing.

Some appear to withdraw and become isolated, others try very hard to be sociable and never seem to get it right.

People with Aspergers Syndrome can find friendships difficult.

#### BEHAVIOUR

Impairments in communication and social interaction produce a range of behaviour linked to these problems.

Speech...absent, delayed or showing abnormal patterns

Play...Isolated, repetitive, unimaginative, destructive, obsessional

Tantrums...can be a way of expressing extreme confusion and/or frustration

Obsessions...Intensive interest with favourite topics, objects, places, people or activities

Insistence on Routines...routines bring some order to Aspergers Syndrome persons and a change of routine can be very difficult to cope with.

People with Aspergers Syndrome perceive the world differently to everyone else.

As there is no cure for this condition, we have gone to a private practise that specialises treating this condition. The aim of this Integration Therapy is to stimulate Paul's neurological development and compensate the underdeveloped portion of Paul's brain. Although we are in early days we have noticed positive improvements at home with Paul..

Paul is still motivated towards his education, coping with School life is the big problem.

We find at home that constant words of encouragement work well for Paul and reinforce the positive in him. He still will not appreciate his own gifts and feels that everyone one around him is somehow better.

Paul reacts well to structured situations within School classes. Group work tends to remove the structure. I believe that this is where Paul's problems start to take over, this creates tensions within a

group for Paul and the other students who through no fault of their own cannot understand the situation.

I would advise that Paul's companions be chosen if possible by the staff members as Paul will and does make poor unsuitable choices of companions. It is becoming apparent to Paul that his social skills are immature and rigid and that he is often rebuffed by other children. This coupled with having poor emotional scale may well cause a reaction out of context to the situation.

A simple device formed between Paul and the staff member may be able to take some tension out of situations and give Paul chance to gain some valuable time to recover. Either Paul leaves the room for a drink or the member of staff sends him to the office on an errand i.e to pick up or deliver an empty envelope.

Dinnertime break is and will continue to be a major problem for Paul, the Psychiatrist treating Paul has described this experience as walking at night through an empty graveyard after watching a horror film.

Paul's character has developed another side to cope with the tension within him, he may well appear aggressive, as he try's to give himself some space to cope. This behaviour gives out all the wrong signs and signals to Staff and pupils. This is not the true picture as he in reality a polite, very sensitive child. He is good company, shows interest in a variety of topics and a rewarding child to work with.

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As a final note during an awkward period last year I was advised that madness is hereditary you get it from your children.

Thank you for your time



Nigel Smith

## **WHAT IS DYSPRAXIA?**

It is an impairment or immaturity of the organisation of movement. Associated with this there may be problems of language, perception and thought.

### **MOVEMENT.**

Gross and fine motor skills are hard to learn, difficult to retain and generalise, hesitant and awkward in performance.

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### **LANGUAGE.**

Articulation may be immature or even unintelligible in early years. Language may be impaired or late to develop.

### **PERCEPTION.**

There is poor understanding of the messages that the senses convey and difficulty in relating those messages to actions.

### **THOUGHT.**

Dyspraxic children of normal intelligence may have great difficulty in planning and organising thoughts. Those with moderate learning difficulties may have these problems to a greater extent.

### **CAUSE.**

For most children there is no known cause, although it is thought to be an immaturity of neurone development in the brain rather than brain damage. Dyspraxic children have no clinical neurological abnormality to explain their condition.

## **BASIC PROBLEMS.**

There are three basic problems psychologically.

1. The child finds it difficult to organise his actions.
2. The child often finds it difficult processing information and sensations from their world.
3. The child has difficulty in dealing with himself when feeling he is failing. Some children mask this problem and carry on regardless. Some children are very unconfident and try to avoid any situation that they might find difficult.

## **WITH THESE BASIC PROBLEMS, WHAT HAPPENS TO THE CHILD?**

Because the child is struggling in some basic ways, this results in particular secondary problems.

1. These children find it difficult to learn socially. Most children learn by listening to their parents comments and watching how other people do things. As dyspraxic children find difficulty dealing with information and as they may
-

shut out feedback comments, they do not learn as quickly in the social setting. They are not very good at working out social signs and cues that tell people how to behave in particular social settings. This then has another knock-on effect in that they then do not adequately develop the skill of being able to put themselves in the position of the other person, i.e. they are not very good at working out why other people are doing what they are doing.

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2. They find it difficult to verbally control their own behaviour or to put simply, they are not very good at talking to themselves inside their own heads. For most children "inside talking" and doing things are linked - in dyspraxic children they are not. Consequently they are slow in developing control over their own behaviour by talking to themselves.

3. Because they have to concentrate so much on what they are doing at the moment, they are poor at thinking and planning ahead. This leads to them being poor at working out the consequence of their own actions and their estimation of time is poor.

4. They are unconfident in their own abilities. Many children find ways of masking this lack of confidence and common strategies they use are pretending they are better than they are, shutting off all the information which gives them feedback - so they do seem to listen, denying that things have happened; being convinced that the opposite is the truth; working hard to avoid certain difficult situations.

### PAULS DAY.

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#### School.

- Finds it difficult to cope with sorting out all his books for the lessons, different rooms and teachers.

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#### In Class.

- Difficulty coping with;  
taking down information from blackboard, teacher etc.  
Slow in reading.  
Clumsy movements of writing.  
Many things happening around him, can only cope with singular things.

---

#### Group work;

too many messages to cope with  
too much discussion.  
Unable to sort out his "jumble of thoughts"

- Always feels vulnerable, anxious and unsure of himself, therefore he;  
Puts on a front,  
Pretends he's better than others,  
Target for mickey taking,  
Target for bullying,  
Retaliates  
Gets in trouble.

#### Break and Lunchtime.

- Feels vulnerable.  
- Difficulty in making friends, finds it easier with girls but at his age this is looked at as odd.  
- Often gets in trouble, he finds he does not know what to do with this time.  
- Supervising of younger children, feels useful although older children often come to class to disrupt things.

He now tells us at home that if he gets in trouble he has to work alone, which he prefers, and if he gets expelled it will solve all his problems. He has pleaded for us to pay for a teacher to teach him at home and has offered to sell all his toys to fund this. Paul still wants to learn.

### **OUR ACTIONS.**

Obtained information from Dyspraxia Foundation and attended meetings.

Obtained information from Institute for Development Potential.

Attended consultation in Plymouth.

Pauls reflex patterns were tested and found to be quite severe. Treatment was offered in order to develop these hopefully to their mature state.

We are now following this with full assessment and treatment in London.

(Please see attached copy of Hope For The Clumsy Child.)

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### **PAULS PRESENT STATE.**

Pauls problems at the moment seem to be increasing. The combination of perceptual hypersensitivity and low self-esteem causes him to experience vulnerability and distress out of proportion to the demands made on him. He appears to have full understanding of his problems and is in full agreement with the treatment in London.

Pauls problems do not just apply to school, we have this at home with new situations, he does not have friends, he dislikes clubs and "panics" with anything not previously planned and explained. For these reasons we have decided that the immature reflexes need to be developed in order to hopefully progress from this state.

### **AIMS AND OBJECTIVES.**

1. Hopefully integration therapy will develop Paul and alleviate his symptoms in order to reach his full potential.

2. Educationally.

Develop with school a package for Paul that will gradually introduce him back into the school day.

Home school liason regarding course work in each subject and provision of text books in all subjects.

3. To provide Paul with protection during the school day until his vulnerable state is hopefully alleviated.



## THE REFERRAL ORDER – BACKGROUND INFORMATION

- I. The Referral Order was introduced by the Youth Justice and Criminal Evidence Act 1999 as the primary sentencing disposal for 10 to 17 year olds pleading guilty and convicted for the first time by the courts. They were rolled out nationally on 1<sup>st</sup> April 2002.
- II. Those meeting the criteria are referred to a Youth Offender Panel for between 3 and 12 months and length should be “commensurate with the seriousness of the offence”

### EXTRACT FROM YOUTH COURT BENCH BOOK

<u>Level of Seriousness</u>	<u>Length of Order</u>
Low	3 – 4 months
Medium	5 – 7 months
High	8 – 9 months*

“The recommended level reflects an early plea of guilty to an offence of average seriousness committed by a 16/17 year old. The younger the offender, the shorter the Order should be”

\* The ceiling was set at 9 months so that Orders of 9 – 12 months could be reserved for the most serious of cases or where a guilty plea is entered at a late stage.

- III. When a Referral Order is made, the young person and, usually a parent specified by the court, are required to attend a Youth Offender Panel comprised of two volunteers from the community and a member of the Youth Offending Service.
- IV. Panels are convened to conduct a first meeting, quarterly progress meeting (s) and a final meeting. The purpose of the first meeting is to negotiate a programme of work which forms the basis of the contract to be signed between the Panel and the young person.
- V. Contracts are determined by Youth Offending Panel members in agreement with the young person. Contents are expected to be proportionate to the seriousness of the offence and the length of the Order, while also addressing the key risk factors and level of re-offending risk.
- VI. Contracts encompass a programme of activity (comprising interventions and requirements) aimed at preventing re-offending, and are governed by restorative justice principles of restoration, reintegration and responsibility. There is a strong focus within the contracts of reparation to the victim or wider community.

- VII. Between sentence and the first panel meeting, a YOS worker is allocated to the case and will complete the *Asset* national standard assessment (a generic assessment tool covering a comprehensive range of risk factors) to identify areas of risk and need and will prepare a report to assist the Panel.
- VIII. The extent to which each of the 12 *Asset* sections is associated with the likelihood of further offending is rated on a scale of 0 to 4 with a possible maximum total score of 48.
- IX. Whilst the YOS provides information and advice, negotiating and agreeing the contract with the offender is led by the community panel members with the YOS then taking responsibility for the contract's enforcement.
- X. Contact requirements: Following agreement of the contract, there should be a face to face meeting with the young person at least once every two weeks for the first half of the Order and at least once every month for the second half of the Order: thus a minimum 9 contact requirement for a 6 month Order.



## WORKING IT OUT

### **VICTIM'S QUESTIONS.**

Here are some questions that victims might want to ask. Try and answer as many as you can. Write and number your answers on a blank piece of paper.

1. Why me?
2. What did I do to deserve this?
3. Have you got a grudge against me?
4. Where you watching me?
5. Why did you do it?
6. Why did you pick on me?
7. Were there others? Have they been caught?
8. Are you going to do it again?
9. What can I do to stop you?
10. Is my family safe from you?
11. Do you realise what it feels like?
12. Do you know how much hassle it causes me?
13. Do you really understand the value of things?
14. What are you really like?
15. What are your parents like?
16. Are you sorry?
17. Have you been punished?
18. Will this stop you?

# **ASPERGER'S SYNDROME**

## **BRIEFING TO F-WING STAFF**

F-Wing Meeting - 15<sup>th</sup> December 2004  
Dr Zainab Al-Attar

### **1. What is Asperger's Syndrome (AS)?**

- An Autistic Spectrum disorder
- Possible difference in the construction of the brain
- Probably present since birth
- Affects the way the child develops
- Affects social functioning

### **2. How does AS show itself?**

#### **2.1. Communication**

- Blunt, tactless, matter-of-fact, no 'beating around the bush'
- No innuendos and hidden meanings
- Do not understand irony and subtle humour
- Interpret what you say literally
- Struggle to understand body language
- Verbally skilled: good vocabulary and grammar
- Tend to talk 'formally'
- May get confused by some 'slang'
- Disturbed gaze (e.g. may look away/stare during conversation)
- Little use of gestures

#### **2.2. Social Functioning**

- Like order
- Like predictability
- Like clear rules
- Respond well to clear structure and boundaries
- Struggle with unwritten rules
- Struggle to understand social nuances
- Struggle with non-verbal cues (e.g. gestures/facial expressions)
- Struggle to take the perspective of others (e.g. with empathy)
- Might invade others' personal space without being aware of it
- Not tuned into 'pecking orders' and social hierarchies (e.g. do not understand 'coolness', street cred, image, or social stigma attached to certain offences).

- Vulnerable to being bullied
- Vulnerable to being misunderstood or seen as offensive
- Can't understand bullies' intent and why they get social prestige
- May not want to be loners but due to bad experiences in the past (e.g. bullying) they find others' presence distressing
- Might spend a lot of time engrossed in bizarre interests
- Get frustrated with inaccuracy and imprecision.
- Might kick off if desperate to escape stressful situation
- Might self-harm if desperate to escape stressful situation

### **2.3. Environment**

- Overwhelmed by loud noises (especially if short-duration noises)
- Overwhelmed by bright lights
- Overwhelmed by powerful smells and odours
- Get distressed if touched unexpectedly
- Overwhelmed by multiple voices (especially if they cannot distinguish whose voices they are)
- Overwhelmed by visually busy places
- Can find change very distressing, especially if it is not explained
- Feel safer with familiar and predictable 'routine'

### **2.4. Movement & Perception**

- Motor clumsiness
- Time perception might be impaired
- Space perception might be impaired
- Might find moving crowds distressing

### **3. The Do's and Don'ts of working with AS**

- Be **precise, clear and direct** in what you say
- Say what you mean & mean what you say!
- Give instructions in logical sequence (e.g. step-by-step)
- Check out understanding if giving new instructions
- Be consistent (across staff members, occasions and tasks)
- Warn of changes that are about to take place
- Explain any changes that are about to take place (e.g. search, cell-spin, unexpected lock-down, unanticipated visit, cancellation of regime, change in personal officer, changes to case conference)
- Stick to familiar routine, where possible
- Don't expect them to generalise learning to new settings
- Avoid humour, irony, suggestive phrases, or slang sayings
- Make clear what is acceptable
- Make clear what is unacceptable
- Address individually, where ever possible. Joint conversations (to several trainees at once) might be confusing
- Keep in mind that change in behaviour (e.g. self-harm) might be triggered by a slight change in routine
- Never take any blunt comments as rudeness or as personal
- If invade personal space, give clear but gentle instructions on what is appropriate and why
- Avoid 'how' and 'why' questions if possible
- Allow some obsessive behaviours, to offer feelings of safety
- Be mindful of motor clumsiness and its role in making them a target for teasing and bullying (e.g. avoid pressure to play table tennis or carry objects which might break if dropped)
- Put written and unwritten regulations/expectations into clear 'rules' (e.g. if shaving, then officer has to supervise, if lock-down there might be more shouting from windows because trainees get bored, if high profile child offence then prisoners might taunt)

- 5.8** Crown Prosecutors must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

**The following lists of some common public interest factors, both for and against prosecution, are not exhaustive. The factors that apply will depend on the facts in each case.**

**Some common public interest factors in favour of prosecution**

- 5.9** The more serious the offence, the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if:
- a** a conviction is likely to result in a significant sentence;
  - b** a conviction is likely to result in a confiscation or any other order;
  - c** a weapon was used or violence was threatened during the commission of the offence;
  - d** the offence was committed against a person serving the public (for example, a police or prison officer, or a nurse);
  - e** the defendant was in a position of authority or trust;
  - f** the evidence shows that the defendant was a ringleader or an organiser of the offence;

- g** there is evidence that the offence was premeditated;
- h** there is evidence that the offence was carried out by a group;
- i** the victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;
- j** the offence was committed in the presence of, or in close proximity to, a child;
- k** the offence was motivated by any form of discrimination against the victim's ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;
- l** there is a marked difference between the actual or mental ages of the defendant and the victim, or if there is any element of corruption;
- m** the defendant's previous convictions or cautions are relevant to the present offence;
- n** the defendant is alleged to have committed the offence while under an order of the court;
- o** there are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct;
- p** the offence, although not serious in itself, is widespread in the area where it was committed; or

- q a prosecution would have a significant positive impact on maintaining community confidence.

### **Some common public interest factors against prosecution**

**5.10** A prosecution is less likely to be needed if:

- a the court is likely to impose a nominal penalty;
- b the defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution or the defendant withdraws consent to have an offence taken into consideration during sentencing;
- c the offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- d the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- e there has been a long delay between the offence taking place and the date of the trial, unless:
  - the offence is serious;
  - the delay has been caused in part by the defendant;
  - the offence has only recently come to light; or

- the complexity of the offence has meant that there has been a long investigation;
- f a prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence;
- g the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is real possibility that it may be repeated. The Crown Prosecution Service, where necessary, applies Home Office guidelines about how to deal with mentally disordered offenders. Crown Prosecutors must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill health with the need to safeguard the general public;
- h the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution or diversion solely because they pay compensation); or
- i details may be made public that could harm sources of information, international relations or national security.

**5.11** Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Crown Prosecutors must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.