

THE BackPages

Viewpoint

Contents

562
REPORTAGE
Revalidation: cracks at first, now chasms
Glyn Elwyn

563
Currents of death?
Mike Fitzpatrick

564
APPRECIATION
Alastair Donald
John Horder and John Howie

565
Flora medica
Richard Lehman

566
ESSAY
Improving the evidence base for pre-travel advice: the importance of surveillance of travel-associated infection
Joanne Lawrence, Jane Jones and David R Hill

569
A bit of magic required
Graeme Walker

570
DIGEST
Book review
Chris Johnstone

571
The BJGP in 2004
David Jewell

When should I see you?
Neville Goodman

572
Choice
Saul Miller

BREAKING THE BUTTERFLY ON THE WHEEL

Knowing I am interested in teenage sexual health and child protection, my friend emailed me late last night:

'Ruth. Need to talk. Have just been called out to see a 12 year old who went to get emergency contraception, the police were called and I was called to do a forensic examination for rape. She will be 13 next month and the boy is just 13. Both virgins. No coercion, they had been going out for 3 months and had discussed sex but didn't really plan this, but one thing led to another. So what is so upsetting?

1) Who was the examination really for? For collection of evidence for prosecution?

2) Could she give informed consent for the examination? Well if she can't give consent for sex then can't possibly give consent for examination. Therefore who decides whether it is in her best interest to have an examination to collect evidence to convict her 13 year-old boyfriend of statutory rape?

3) What will happen to the boy?

4) Who has abused this girl's rights the most?'

The Sexual Offences Act 2003 deems those aged 12 years and under to be incapable of giving consent and that sexual acts involving such children is statutory rape. As a result of the Act and the findings of the Bichard Inquiry,¹ local protocols obliging health professionals to report such cases of illegal sex to the police are being implemented throughout England.

At the same time, we are reminded that we are 'here to listen, not to tell' and that we have one of the highest teenage pregnancy rates in Europe,² a large part of which is because young people do not trust health professionals to respect their confidentiality.³

The Department of Health Best Practice Guidance reminds us that we must:

*'Weigh up against the young person's right to privacy the degree of current or likely harm, what any such disclosure is intended to achieve and what the potential benefits are to the young person's wellbeing.'*⁴

Furthermore, the Children Act 2004 places upon all of us a duty to safeguard and

promote the welfare of children.

So, exactly how were these two children (for there are two children here) safeguarded? Their sexual encounter was certainly ill advised and probably hides a lot. It was also illegal, but will prosecuting the boy safeguard either of them? When it comes to promoting their welfare, I would be the first to feel very concerned about this pair and make a referral to social services. But social services were not involved at all. The girl certainly won't seek contraceptive advice again in a hurry and from a more utilitarian viewpoint, nor will her peers; the bad news will travel fast. I doubt the referring health professional will feel much confidence in such a grossly excessive response; they will think twice about following their protocol next time. As my friend points out, from whom do these children most need safeguarding? From one another, yes, but surely far more from the excessive system that is supposed to protect them, for this is breaking the butterfly on the wheel. What these young people needed was help and support, what they got was the strong arm (or perhaps both left feet) of the law.

Don't think this is just my friends this is happening to. Somewhere near you there is a protocol; find it, have a rant. Ask difficult questions about exactly what will happen to a child if you do make a referral to the police. You owe this to the children you care about; sexual activity in the under 12's is abuse in my book and these children need safeguarding. But this kind of response is abuse as well, only worse, because we are grown ups and should know better, whereas they are children and need us to protect them.

Ruth Bastable

REFERENCES

1. Bichard M. *The Bichard Inquiry. Final Report.* <http://www.homeoffice.gov.uk/crimpol/police/bichard/index.html> (accessed 8 Jun 2005).
2. RCGP. *Confidentiality and young people; improving teenagers' uptake of sexual and other health advice. A toolkit for general practice, primary care groups and trusts.* London: RCGP and Brook London 2000
3. Donovan C, Mellanby AR, Jacobson LD, et al. Teenagers' views on the general practice consultation and provision of contraception. *Br J Gen Pract* 1997; **47**: 715-718.
4. Department of Health. *Best Practice Guidance for Doctors and other Health Professionals on the provision of advice and treatment to young people under 16 on contraception, sexual and reproductive health.* 2004. http://www.dfes.gov.uk/teenagepregnancy/dsp_news_view.cfm?NewsID=51 (accessed 8 Jun 2005).