

why no or only partial disclosure can take place. The letter is likely to be placed before the family court Judge and so all reasons should be fully articulated.

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## Historical and Institutional Cases

### Historical cases

Allegations arising from incidents (from several to many) years earlier are a common feature of prosecutions involving child victims, particularly allegations of sexual offences. In some cases, the child victims will now be adults.

There are good reasons why such cases do not come to light at the time of the incidents, beyond the possibility that they are untrue. For example: children are used to being controlled by adults and offenders can be expert at exercising control; they may not even realise until they are older that they have been subjected to abuse; they may only be prompted to reveal what happened to them when they see the pattern being repeated with younger relatives.

There is nothing that intrinsically prevents a prosecution merely because the incident dates from a much earlier time. Abuse of process arguments can often be successfully defended. Nevertheless, prosecutors must take additional care with such cases, if for no other reason than that the evidence is inevitably more fragile and susceptible to attack. Consideration must also be given to what evidence may no longer be available and how this might impact on the fairness of the trial.

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### Institutional cases

One of the difficulties that emerged some years ago was as a result of 'trawling' for witnesses when an allegation was made against (for example) an employee in a children's home. This led to suggestions to the witnesses in court that they had manufactured their allegations in response to the police approach, in order to secure compensation.

If prosecutors are involved in a case involving a number of victims, particularly of allegations of institutional abuse, they need to make enquiries about what led to the witnesses coming forward.

The Fourth report from the Home Affairs Committee ([The Conduct of Investigations into Past Cases of Abuse in Children's Homes; session 2001-2002](#)) set out a series of 19 recommendations dealing with concerns that such practices had led to miscarriages of justice. The government response to the Report was that it respected the views of the Committee, but did not share its belief in the existence of large numbers of miscarriages of justice.

The report indicated that the fact that the CPS rejects a significant proportion of such allegations is strong evidence that there is robust review of cases by the CPS.