

Katherine Gieve Memorial Lecture 2025

‘Cleveland: Deja Vu?’

It is a most sad honour, but honour none the less, to be invited to speak at this event held in the memory of Katherine Gieve, whose death last year has left a void for many of us who knew her and greatly valued the part that she variously played in each of our lives.

Others have spoken at the most moving funeral, and since, about Katherine and the many facets of her life and personality. I do not seek to repeat those very well placed words, but to add a few from my own perspective.

I got to know Katherine around 1993 when, as a junior barrister, I moved from Birmingham to 1 Kings Bench Walk chambers in London, although we had met before at ALC events. I was most fortunate that Katherine chose to instruct me in some important and interesting cases. Indeed, even the more mundane cases were always of interest to Katherine, particularly if something triggered her very sensitive and utterly sound sense of what was fair and just. Time spent on these cases was never dull. Katherine’s engagement with the issues and her clients was never less than full on. We achieved some memorable results, in doing so we found common cause and a like-minded approach to the law and the challenges that these cases threw up.

When, in 2005, I was appointed to the Bench, Katherine was kind enough to feign a sense of professional bereavement at my departure, but by then we had become good chums. In the following two decades we met up regularly for supper and to catch up. These were, for me, most welcome occasions, away from being a judge, where we would discuss a wide range of non-legal matters – as well, of course, as any recent gossip.

As others have so rightly said, Katherine was a particularly special human being. Those who are gathered here this evening in her memory, have lost a most valued colleague, mentor and role-model. Many, like me, will also have lost a good friend, who is now much missed.

In thinking what I might speak about this evening, I have hit upon a topic which will have been part of Katherine's professional DNA, as it is for me and all others of our generation who had grown up as children's lawyers (a new breed as it was then) in the 1970's and 80's: child sexual abuse within the family.

I have chosen this topic for two reasons. Firstly, because it is my perception that it is one which may have, to a degree, fallen below the radar for the generation or so of lawyers and social workers who have come to this work more recently. Secondly, because this perception has been strikingly confirmed by a recent report by the national independent Child Safeguarding Review Panel. The panel based its report on the more than 130 rapid reviews, and over 40 serious case reviews, that it had received between 2018 and 2023. The opening paragraph to the report's Foreword captures the degree of professional concern that its authors felt at what they had found:

'This report describes very shocking things about the lives, distress and pain of children who had horrific abuse perpetrated on them, by adults who should have cared for them and kept them safe. *What is even more disturbing is that safeguarding agencies were unable to listen, hear and protect these children.* This report, and the evidence on which it is based, stands as both an invitation and a challenge to government and professionals, to respect and recognise the voices and experiences of the children at the heart of this review, so that children in the future might receive the help and protection that should be their undeniable right.' [emphasis added]

Before turning to these recent findings, it will be helpful to set the scene in a wider context.

It is, I think, well understood that the ability to accept the presence of abuse, particularly child abuse, within any human society changes over time. Thus, it was only in the 1970's, following the work of Kempe and Kempe in America, that it became widely accepted that parents might physically abuse their children. Before then, if a child was presented at hospital with physical injuries, and the parents could not account for their occurrence, the medical profession recorded the case as one of 'unexplained infant trauma syndrome'.

Physical abuse is the most basic form of child abuse. It must have been an aspect of human behaviour since the very earliest of times. That it was going on will have been obvious and in plain sight. Hogarth's 'Gin Lane' in the 18th century and any work by Dickens in the 19th century prove that point, yet for this behaviour to be seen as 'abuse', something overtly harmful to the child and from which the child must be protected, requires society to change its perspective from one of toleration to one where such behaviour is not to be accepted.

Following the work of Kempe in the 1970's, and the growth in understanding that there were 'battered babies', as they were called, attention then moved on to sexual abuse. Again, the sexual abuse of children must have been part of the repertoire of human activity since the dawn of man. Until more recent times, it would seem that it was not only tolerated, but not considered a matter that should be hidden. For example, I recall that Dr Johnson's biographer, James Boswell, who kept copious diaries in which, amongst many other things, he recorded his many sexual exploits, would openly, and apparently shamelessly, record that some of these were with children or child prostitutes.

It was during the early 1980's that the prevalence of child sexual abuse came to be widely accepted in the UK amongst mainstream medical, social work and other professionals. The fact that different societies reach levels of understanding and acceptance at different times came home to me when, in 2005, a group of us from the UK presented our knowledge and approach to child sexual abuse to a conference in Stockholm organised by the Swedish equivalent of Great Ormond Street Hospital. It was clear throughout the day that many of the audience of paediatricians, social workers and police simply did not accept that child sexual abuse was an issue in Sweden and I recall it being said that 'we refer to it as the British disease'.

The blossoming in the 1980's of the unwelcome realisation that it was a problem in England and Wales presented a number of challenges as cases began to come in some numbers before the courts. Where the evidence may rest upon what a child may have been heard to say by another family member, foster parent or teacher, and any allegations were denied, what credible evidence could be put before a court to prove abuse. Whether further investigation, for example questioning the children, having a

skilled psychiatrist or psychologist observe their behaviour (for example when playing with ‘anatomically correct’ dolls), or having a paediatrician conduct a physical examination, was permissible and/or probative.

It took some years for these issues to be tested and played out through the family courts. At the time Katherine will have been, I am confident, in the thick of it all in London, as I was in the Midlands. They were very interesting times and we all learned a good deal – and did so pretty quickly.

Matters came to a head when two paediatricians in Middlesbrough came to diagnose sexual abuse in some 125 children following physical examination. The resulting public inquiry, chaired by Dame Elizabeth Butler-Sloss (as she then was), whilst being geographically limited to the events in Cleveland, nevertheless provided an invaluable explanation and appraisal of the various evidential and investigatory interventions that were being developed at that time.

The Cleveland recommendations included the famous key phrase ‘the child is a person, and not an object of concern’. The need to listen to children and take seriously what they say was made clear. The report, in making many wide ranging recommendations, stressed the need for an inter-agency response to concern about possible child sexual abuse. There was an acute need for immediate training for social work and other professionals into child sexual abuse, how to respond to it and how best to investigate whether it has occurred. Many important lessons were learned through the Cleveland Inquiry and were delivered in clear terms by Dame Elizabeth in her report.

Intrafamilial sexual abuse was thus, very sadly, a common and mainstream topic in family proceedings in the 1980’s and 90’s, but my perception is that it has dipped to a degree back below the radar in more recent times. More than once I have asked an audience of social workers how many know of the Cleveland Inquiry and its recommendations, only to find that there are comparatively few who do.

Why this should be so is not for me to say. It may have something to do with the change of focus onto serial abusers, some of whom are very public figures, or on to

abuse by organised gangs, and the public outrage that follows the discovery of such behaviour.

Be that as it may, that this is so is, to my eyes, borne out by the recent findings of the Safeguarding Panel in the report to which I now turn. It was published in November 2024. Its title, 'I wanted them all to know' is drawn from the words of a child who had been sexually abused, who said: "I couldn't talk about the sexual abuse. It was too difficult. I wanted them all to notice and to ask me what was going on."

The 136 cases looked at by the Panel had each been the subject of a 'rapid review' following the death or serious injury of a child. In most cases, as I understand it, the presenting issues did not include sexual abuse and the central point being made in the report is that the presence of sexual abuse, to a marked degree, amongst these cases had not been recognised and acted upon by professionals at the time, or in many cases even by those conducting the rapid reviews.

The Panel made a number of key findings.

Firstly, and most importantly, they found that practitioners working with children and families had not been equipped with the knowledge, skills and practical guidance to identify and respond confidently when there were concerns of child sexual abuse in the family environment.

There appeared to be uncertainty over what could, or could not, be said to children leading to a culture of silence and fear (for example fear of being criticised for interfering with any possible future police investigation). This was coupled with an over-reliance upon the criminal justice system to take the lead, which, in turn, led to children not being protected.

The Panel identified that practitioners have been led to believe that they should leave it to the children to make the running and to approach them to speak about sexual abuse, rather than the professional creating opportunities for children to speak where there are grounds for concern that abuse may be occurring.

But that is not all, I quote:

'Yet when children did tell someone, as they did in nearly three-quarters of the reviews we looked at, they were often not listened to or were disbelieved, with

subsequent retractions taken as proof that the abuse had not occurred, and leaving them at further risk of harm.’

A lack of clarity was also evident about social workers joint working with Police, as is recommended in *‘Working Together’*.

Again, the Panel identified that a good number of the children were displaying a wide range of, sometimes extreme, harmful behaviour – including suicide or suicidal ideation – yet professionals failed to question whether this was in some way related to possible sexual abuse.

Where there was clear evidence of abuse, the failure to act continued. Again I quote:

‘Following the identification of the sexual abuse, practitioners and managers across multiple agencies often appeared to be unclear about what they could do in their role to support the child and their family. In addition, despite guidance making it clear that children can access therapeutic support while a criminal investigation is underway, there still appeared to be a perception that this was not possible.’

In a third of the cases reviewed, there was an individual who was a known risk of sexual harm, or had been convicted of sexual offences, yet, in some of these cases, those individuals were permitted to move into a family home with children without any risk assessment.

In confirmation of the hunch that I have had for some time, the Panel concluded that professionals, across all agencies, were routinely failing to identify and act on signs of sexual abuse, and that this failure was down to a lack of training and resources.

The courts were not without criticism:

‘We were also particularly concerned about some of the family court’s decisions described in reviews – in both public and private law proceedings – where a lack of recognition of the risk presented by a parent or carer had resulted in children being placed with or having unsupervised contact with the person who was abusing them. It appeared that courts had at times failed to understand the risks they knew about. At other times, there had been inadequate investigation of the history of those concerned through the commissioning of Section 7 reports (Children Act 1989), leaving children at risk of further harm.’

The report calls for the development of a national strategic plan to address issues of child sexual abuse in the family. In a most chilling echo of what was said after Cleveland over 35 years ago, there is a call for all relevant professional bodies to ensure that, by

training and guidance, all practitioners have the necessary skills and understanding to deal with these issues. There is a similar call to me, as President, to consider the findings of the review and determine what actions are needed to support judicial decision making when children may have been sexually abused.

As you will have gathered, I take the findings of this review very seriously. At its recent meeting, following a presentation by the authors of the report, the national Family Justice Board agreed to invite each local Family Justice Board to consider the report and engage with its recommendations in their local area.

This report is hard but essential reading. You can bet that Katherine would have read it. The Panel's core messages should be known to all working with children or in the Family Court. I hope that for me to use the opportunity that this evening presents to tell you about it was therefore apt.