



Re Baby P

The Family Justice Council was established in 2004. It is an interdisciplinary body which brings together the key groups that work in the family justice system. Its members include judges, lawyers, social workers and health professionals. Its terms of reference are attached. While not specifically asked to respond to you to inform your report, the Children in Safeguarding Proceedings Committee of the Family Justice Council, a list of whose members is appended to this document, enclose the following short submission.

We regret that we have had only a limited opportunity to discuss and formulate this document, which is accordingly in very summary form. It has not been formally considered by the whole of the Family Justice Council as we would have wished

We would be happy to develop these issues further and would particularly welcome dialogue as to any specific matters upon which we might be able to assist the progress report on safeguarding

KEY POINTS

- 1) The quality of social work personnel is crucial to effective child protection. Whatever new systems and procedures are introduced, they will always break down unless they are operated by well-educated, well-supported social workers who carry a manageable case load. Detailed regulations and guidance cannot compensate for the lack of skills and experience in a depleted work force. We are aware that the DCSF and DH are developing projects for social work training,

recruitment and retention, alongside reforms in the delivery of services. We have contributed positively to the debate upon those issues. We view such reforms as long overdue and urge government to commit the necessary resources as soon as possible.

- 2) The failure on the part of Haringey BC to instigate care proceedings in the case of Baby P is, of course, striking. There are considerable practical disincentives to any Local Authority which contemplates the issue of care proceedings but we also fear that the thresholds for local authority intervention in recent years have been influenced by the clear message from central government that children should be kept out of public care wherever possible.

Recent research from Sinclair, Baker, Lee and Gibbs “The Pursuit of Permanence: a Study of the English Care System” challenges the proposition that children in the care system generally have negative outcomes. The research suggests that children who come into the care system before the age of 5, as baby P might have done, generally have very positive outcomes. That research accords with the considerable experience of this committee.

Similarly all of the research evidence, alongside our own experience, refutes the assertion, which is sometimes advanced, that Local Authorities are inclined to bring care proceedings unnecessarily. Indeed the more common problem is that they have delayed too long before doing so, to the detriment of the child’s welfare.

We suggest that the message that care proceedings and public care are **intrinsically** “bad” is a simplistic and fundamentally misguided generalism.

SUBSIDIARY POINTS

Social work practice

- 1) Impact of recent changes: There have already been many changes in social work practice, procedures and organisation since Baby P died on 3.8.07, some as a

result of the Victoria Climbié Enquiry. It would be sensible to give those changes time to settle before seeking to implement yet further procedural reforms.

Continual change places huge pressures upon individual social workers and their management. What is required is a concerted improvement in practice, not more new guidance

- 2) Shortcomings in assessment processes: The current process for undertaking, for example, a core assessment requires the compilation of large amounts of detailed information. For many, hard pressed, social workers it is a dauntingly time consuming task. Indeed it is estimated that social workers spend between 12% and 20% of their time working directly with children and families, the remainder being spend on administrative tasks. There is a danger that assessment can descend into a “tick box” or “form filling” exercise which lacks any coherent analysis of the plethora of information. Moreover, the numerous items in the Core Assessment are given equal weight, when clearly some are far more important for a child’s safe development than others. What is lost is any holistic sense of the wider picture - the real experience of the child, the real risks which he faces. Thus, for example, in the case of Baby P any meaningful overview by way even of a simple chronology would surely have alerted social work professionals to his predicament? We would ask that the ICS paperwork be reviewed to ensure that it assists and promotes analysis and reflection.

Sometimes, as appears to have occurred in relation to Baby P, a view may be taken early on by the professionals concerned that the child and his family are merely in need of support under Part III of the Children Act 1989, meaning that sufficient attention is not paid to the emergence of clear evidence that he may actually be a child suffering significant harm, warranting an investigation, and possibly further action, under Part IV of the Act.

- 3) Inspection: Similarly, we fear that inspections such as those conducted in Haringey by OFSTED focus upon procedures and the timely completion of paperwork rather than the quality of social work and associated decision making.
- 4) Fathers: We note that Baby P had an identified father. We do not know to what extent, if at all, he formed part of any child protection strategy. We observe that

there are many barriers to fathers' involvement in Local Authority processes and that all too frequently they are marginalised, routinely being perceived as posing a risk to the child rather than, subject to assessment, being considered as a potential resource for their children.

- 5) Family and friends placements: Baby P was placed with a family friend. That seems to have occurred as an alternative to s20 accommodation or the issue of care proceedings by the Local Authority. Although we accept that it can be appropriate for a local authority to help families make their own arrangements, we are concerned that the pressures on local authorities to reduce the number of looked after children has encouraged social work managers to make such placements of children who are subject to a child protection plan and then to deem them “private” arrangements, thereby seeking to minimise local authority responsibility for assessing and supporting the placement, leading to drift and uncertainty.
- 6) Even in cases where, essentially, the local authority does accept responsibility for placement of such children, we have repeatedly expressed our concern as to the growing phenomenon of the inappropriate use of s20 “voluntary” accommodation, sometimes combined with hasty placements with unassessed family friends or relatives. Where a child is suffering harm but the Local Authority choose to avoid care proceedings by arranging an “agreed” alternative placement, all discretion resides with the Local Authority and, as in the case of Baby P, errors of judgment go unchallenged. Although a strong system of reviews can provide some safeguards for children looked after under s20, the very variable practice amongst IROs and some excessive caseloads may preclude good practice. If, on the other hand, care proceedings are issued, the child has the protection of a Cafcass guardian and a solicitor. The parents have access to legal advice and support. The court is able to oversee the child’s welfare and to direct appropriate assessments. Moreover, taking care proceedings does not always entail the removal of a child from its family.
- 7) We accept that family and friends placements can have very positive outcomes for vulnerable children. Our concern is that they should be properly assessed,

regulated and, most importantly, supported. We look forward to commenting upon the planned revisions to Children Act guidance on these issues.

- 8) Postcode lottery of intervention: Very different preventative and supportive services are available in different geographical areas. Different authorities adopt their own thresholds for each level of intervention, from basic support to, ultimately, the issue of proceedings. So much depends on the availability of resources both in terms of finance and personnel. We note with concern the national 15% vacancy rate in social care posts, which is certainly higher in most London Boroughs who are obliged to depend excessively upon agency workers

Inter-agency working

- 9) We fear that the divide between the DCSF and DH is reflected in a deepening division between health professionals and social workers. We have no evidence of any improved sense of personal responsibility for individual children on the part of professionals, as might have been anticipated following Climbié and the safeguarding duties contained in the Children Act 2004.
- 10) Good quality child protection requires clear and demonstrable protocols for resolving differences of opinion, between all agency partners and a system for recording such disagreements on case notes.

Local Safeguarding Children Boards

- 11) We know of little evidence which might suggest that LSCBs are any more effective in promoting good interagency working or the safeguarding of vulnerable children than their predecessors, the Area Child Protection Committees. More information and analysis is required.

The legal process

- 12) We are aware of limited, anecdotal reports that some Local Authority legal advisors now believe it is virtually impossible to persuade a court to grant an order (whether an interim care order or EPO) for the removal of a child in a “neglect” case. That anxiety apparently follows a number of reported decisions of

the High Court, particularly *Re L* [2007] EWHC 3404. It is arguable that those cases place an unnecessarily restrictive gloss upon the words of the statute and have thereby raised the threshold for state intervention. But each case must be approached upon its own merits and there are certainly “neglect” cases, such as that of Baby P where the child is indeed at immediate risk of really serious harm. It would be helpful if any misleading perception of the current position in law could be dispelled.

- 13) Cases perceived as “neglect” tend to attract a low priority within the court system, just as they do within social services departments. They are commonly, for example, dealt with by Family Proceedings Courts rather than High Court judges. This may stem from a perception that neglectful parents are less culpable than, say, those who cause injury. The reality is that children who have been subject to chronic emotional and physical neglect are some of the most troubled and damaged children coming into the care system and decisions as to their future are particularly challenging
- 14) Otherwise we do not consider that the legal process presents any barrier to good safeguarding practice. The basic legislation is clear, workable and has proved resilient to challenge. Tinkering would not be at all helpful. We would particularly deplore any attempt to revise the threshold criteria set out in s31 of the Children Act 1989.

Finally, given that cruel and sadistic and/or disturbed people do exist, it must be acknowledged that it is idle to suppose that it may be possible to protect all children from harm throughout their childhoods. Any attempt to do so would involve wholesale interventions in family life which would be unacceptable in democratic society.

Terms of Reference

Family Justice Council

The Family Justice Council aims to facilitate the delivery of better and quicker outcomes for families and children who use the family justice system. The Council's primary role is to promote an inter-disciplinary approach to family justice, and through consultation and research, to monitor how effectively the system both as a whole and through its component parts delivers the service the Government and the public need and to advise on reforms necessary for continuous improvement. In particular it will:

- Promote improved interdisciplinary working across the family justice system through inclusive discussion, communication and co-ordination between all agencies, including by way of seminars and conferences as appropriate;
- Identify and disseminate best practice throughout the family justice system by facilitating a mutual exchange of information between local family justice councils and the national Council, including information on local initiatives, and by identifying priorities for, and encouraging the conduct of, research;
- Provide guidance and direction to achieve consistency of practice throughout the family justice system and submit proposals for new practice directions where appropriate;
- Provide advice and make recommendations to Government on changes to legislation, practice and procedure, which will improve the workings of the family justice system.

Membership of the Children in Safeguarding Proceedings Committee

Her Honour Judge Lesley Newton (Chair)

Margaret Campbell (Solicitor, London Borough of Southwark)

Stephen Cobb QC

Graham Cole (Solicitor, Luton Borough Council)

Martyn Cook (Family Magistrate)

Nicholas Crichton (District Judge Inner London Family Proceedings Court)

Deborah Cullen (formerly Legal Group Secretary, British Association for Adoption and Fostering)

Katherine Gieve (Solicitor)

Danya Glaser (Consultant Child and Adolescent Psychiatrist)

Sheridan Greenland (Deputy Director, Family Law and Justice, Ministry of Justice)

Elizabeth Hall, (Cafcass)

Andreas Kyriacou, (Senior Co-ordinator Children, Looked After, LB Harrow)

Bridget Lindley, (Deputy Chief Executive and Legal Adviser, Family Rights Group)

Caroline Little, (Association of Lawyers for Children)

Judith Masson, (Professor of Socio-Legal Studies, Bristol University)

Rosalyn Proops (Consultant Community Paediatrician)

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