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Promoting Change from 'Child Protection' to 'Child and Family Welfare': The Problems of the English System

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Partnerships for Children and Families Project

Promoting Change from 'Child Protection' to 'Child and Family Welfare': The Problems of the English System

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> > June 2002



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Rachael Hetherington and Tracey Nurse

Abstract

In England, the system for children and families in need of state intervention has developed in response to a series of political changes and to high profile and highly publicised child welfare 'cases'. This has led over the past 20 years to a focus on child protection as the most important aspect of the work. For the last 5-8 years, attempts have been made at many levels to redress this imbalance and put more emphasis on family support. However, there are barriers to change, in the existing structures, in the distribution of resources and in anxieties about public responses to state intervention. Moving from child protection to a more supportive and interventionist approach is proving difficult. This paper will describe the English system and consider ways in which a more preventive and proactive approach to child and family welfare might be achieved.

Promoting Change from 'Child Protection' to 'Child and Family Welfare': The Problems of the English System.

Rachael Hetherington and Tracey Nurse

Introduction: The Development of the System

Child welfare systems are fundamentally shaped by earlier aspects of a country's welfare systems and have a long and complex history. Parallel developments taking place in other aspects of welfare and in the support of people who are poor, disabled and unemployed also affect them. Understanding the way the child welfare system functions now entails some consideration of how it used to function, and why changes have been made. After a brief historical introduction, this paper will describe the framework of the present system formed by the Children Act of 1989 and the guidelines published by the Department of Health. This will be followed by an analysis of the problems of the system and a description of one project that is trying to bring about changes. In conclusion, we will look at the current dilemmas and opportunities facing English policy makers.

We will begin our history at the point when the British Welfare state was set up in the late 1940s and 1950s, after the Second World War. In the UK, the civil experience of the war had important repercussions on child welfare policy in several respects. In particular, the evacuation of children from the major cities to the country brought to everyone's attention that many children were living in poverty, were malnourished and were lacking in many fundamental necessities for healthy physical and emotional development. The problems of children who were separated from their families were observed and recorded. The intervention of the state during the war had become commonplace, and relatively acceptable, and the well-being of the child had become a valid concern. This development in public awareness was reflected in the research of John Bowlby, whose influential work on the origins of depression followed from the work done at the Anna Freud clinic during and after the war (Bowlby, 1969).

The social welfare services for children set up after the war were administered and largely financed by the Local Authority (elected local government). The services developed in part as a response to the report of an inquiry in 1947 into the death of a child, Dennis O'Neil, who had been fostered. This set the pattern for a very characteristic aspect of the English child welfare system; changes have often been prompted by reaction to the reports of inquiries into child deaths or other child welfare scandals. However, for some years following these developments, the structures of the system were quite stable. The changes were mainly within the culture, ideology, and theoretical perspectives of the social work professions. New services were developed and the sixties and early seventies saw an increase in attention to community social work, the development of family work, and the introduction of systemic family therapy. These developments were in tension with an increase, both on the left and the right, in concerns about individual rights. During the late seventies and early eighties enormous social and political changes took place. The intervention of the state was actively discouraged and individual responsibility was promoted. Specialisation was introduced, with an emphasis on the social worker as provider of services¹.

At the same time as these changes in the wider national political philosophy were taking place, there were events within the child welfare field that had major repercus sions. In the 1980s, there were several child death inquiries, the most important being those into the death of Jasmine Beckford in 1984 (London Borough of Brent, 1985) and Kimberley Carlile in 1986 (London Borough of Greenwich, 1987). Social workers were blamed for failing to pay enough attention to the children and being too ready to accept the protestations of the parents.

A review of the legislation relating to the welfare of children and young people was undertaken and looked likely to support a 'child rescue' agenda. However, in 1987, this was overtaken by events in the northern English town of Cleveland. It became known that large numbers of children were being taken into care on the basis of allegations by paediatricians that they were being sexually abused. This was very actively covered by the press, and became a major scandal. It was clear that the police and the social services were at odds, and that there were deep divisions in the medical profession over the actions and views of the paediatricians. There was an inquiry into what had happened (Secretary of State for Social Services, 1988) which emphasised the failure of the system to listen to the child, but also emphasised the rights of parents and the need for social workers to work in partnership with parents.

All these inquiry reports affected the outcome of the review of child welfare law. The Children Act of 1989 reflects the tension between giving priority to the welfare of the child and respecting the rights of parents. The changes in the law made by the Children Act of 1989 were accompanied by cultural changes. Parton, Thorpe, and Wattam (1997) point out that:

increasingly our energies have been focused on refining and modifying the systems and procedures themselves. We have been concerned not so much with trying to do something about *child abuse* but *doing something about child protection* (Original italics, p. 18).

The Role of the Law and the Children Act of 1989

For about 30 years, the functioning of the child welfare system had been dominated by the thinking of welfare professionals using a welfare discourse and a medical model. King and Piper, writing in 1990, described how the language and the way of thinking about child welfare had shifted from a welfare discourse to a legal discourse. Thus the forces driving subsequent developments used the language of rights, looked for proof and evidence, and sought to name a responsible – or guilty – person.

The Children Act of 1989 consolidated previous legislation and developed a new court structure. It united in one Act the legislation relating to child protection, the support of families in difficulties, and decisions about the care of children whose parents were divorced or separated, but it did not include adoption law. It confirmed the separation between child welfare and juvenile justice. It also confirmed the social services department of the Local Authority as the responsible agency for child protection. Many aspects of the old legislation reappeared in the new Act, sometimes, as with the role of Guardian ad Litem (see below) with an expanded role. However, there were some important new developments. Some of these changes were intended to safeguard the rights of parents, particularly with regard to children in Local Authority care. Parents whose children were in care on a voluntary agreement, without a court order, were now able to take their children out of care without giving notice. If parents did not maintain contact with their children, the Local Authority could no longer assume the parental rights on children in voluntary care, as had previously been the case. Parents now continued to have some parental responsibility for their children when they were on an order and in Local Authority care. However, the most important change was encapsulated in the statement at the beginning of the act that the interests of the child were paramount².

Children 'At Risk'

The Children Act 1989 is a law that *enables* the Local Authority to provide supportive services for children 'in need' and *requires* the Local Authorities to provide services for the protection of children 'at risk' of 'significant harm'. Part III of the Act covers the services for children 'in need'.

It shall be the general duty of every Local Authority... a) to safeguard and promote the welfare of children within their area who are in need: and b) so far as is consistent with that duty to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's meds (Children Act, 1989, s.17).

The definition of 'in need' includes children with a disability. Under part III of the Act, the Local Authority has a specific duty to provide accommodation for children who would otherwise be homeless, and must also provide accommodation on a voluntary basis for children assessed as being 'in need'. Young people aged 16 to 18 can request accommodation without the agreement of their parents. The duties of Local Authorities to assist young people leaving care at 18 until they are 21 have recently been extended (Children (Leaving Care) Act, 2000). The Act gives power to the Secretary of State to make detailed regulations for a case review system for children looked after by the Local Authorities (s. 26), pointing the way towards an increase of central guidance on the conduct of cases.

Children 'In Danger'

Part IV of the Act sets out the grounds on which a court order can be made and describes the orders. The grounds are that:

the child concerned is suffering or is likely to suffer, significant harm; and b) that the harm, or likelihood of harm, is attributable to - (i) the care given to the child ... not being what it would be reasonable to expect a parent to give him; or (ii) the child's being beyond parental control (Children Act, 1989, s.31(2)).

The orders that can be made are a care order or a supervision order. A care order commits the child to the care of the Local Authority. It gives the Local Authority parental authority over the child, and control (subject to challenge in the courts) over the amount of contact between parent and child. A supervision order gives the supervisor (a designated Local Authority or a probation officer) the duty to advise, assist and befriend the child, and to take the necessary steps to do so. An application for a supervision order has to meet the same conditions as for a care order.

In a situation where there may be immediate danger, the Local Authority or the police can apply for an emergency protection order which lasts for 7 days. Alternatively, the Local Authority can apply for a child assessment order. This order (which is not much used) requires parents to bring the child for assessment to a specified person or agency at a specified date. The order lasts for 7 days from the specified date.

Leaving Local Authority care

A care order is not time limited (beyond the age of 18), but after 6 months, anyone with parental authority, the child or the Local Authority can apply for the order to be discharged. A child on a care order should have reasonable contact with parents and family and this can be specified in detail when the order is made. If parents want more contact than the Local Authority allows them, they can request a court order to regulate this. The child or the Local Authority can ask the court to forbid contact. However, in spite of the protection offered by the courts, the great fear of all parents who deal with the child protection system is that their child will be taken into care, and they will lose contact, and that this will be made permanent through adoption. If the child is not able to safely return to her parents, and looks likely to remain in Local Authority care until the age of 18, adoption is considered by the social services as a possible option. The use of adoption for children in state care is actively encouraged, particularly, but not only, for younger children. Adoption law is being reviewed, but at present a child can be freed for adoption at a point when there are as yet no named or identified adoptive parents available. The child then remains in the care of the Local Authority until such time as suitable adoptive parents are found. It is possible for the court to make an order for a child to be adopted or freed for adoption against the wishes of the parents.

The philosophy of the Children Act

The philosophy of the Children Act of 1989 is strongly child centred. As well as setting out the primacy of the child's welfare in the first section of the first part of the Act, the

next section goes on to state the circumstances to which the court shall have regard. These are:

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding); (b) his physical, emotional and educational needs; (c) the likely effect on him of any change in his circumstances; (d) his age, background and any characteristics of his which the court considers relevant; (e) any harm which he has suffered or is at risk of suffering; (f) how capable each of his parents... is of meeting his needs; (g) the range of powers available to the court (Children Act, 1989, s.1 (3)).

Any report to the court, whether in care proceedings or in relation to the responsibility of parents after divorce or separation has to take these circumstances into account.

In this way, the Act reflects the concerns that were voiced after the inquiries into child deaths referred to above. These inquiries (and others) made a point of the lack of attention paid by social workers and other professionals to the experiences, to the feelings and the wishes of the child, and to the lack of awareness of the child's physical state and emotional well being. Another way in which the Act attempted to look after the child's welfare was through the consolidation and extension of a service which had originally been put in place in the Child Care Act of 1980. This was the Guardian (originally Guardian ad Litem) Service. The Guardian is an independent social worker, appointed by the court to represent to the court the wishes and interests of the child and to give the court an independent opinion on the child's best interests.

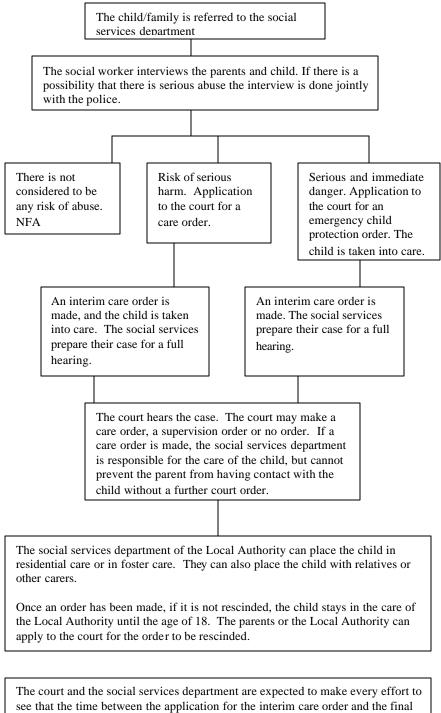
The effect on practice

Although only a very small minority of cases that cross the threshold of the social services ever come to court³, the law relating to child protection has a powerful defining effect on all the work of children and families services. Proceedings for the removal of children from their parents' care are initiated by an application to the court made by the Local Authority. The social services department also has a duty to make enquiries, if they have "reasonable cause to suspect that a child… in their area is suffering or likely to suffer

significant harm" (Children Act, 1989, s.47). The social services department of the Local Authority is thus central to the system of child protection⁴. They have to investigate allegations of harm and they decide whether to make the application to court for an order. All other services have to refer to them. The social workers are identified in the minds of the public as people who take children away from their parents – or who fail to take children away when they should.

The effect of the law on social work practice is compounded by the nature of proceedings in the English courts. The English Family Proceedings Court is formal, adversarial, and evidence based. Although the Children Act of 1989 mitigated these aspects of procedure to some extent, the adversarial approach and the need for evidence still play a very large part. All parties usually are legally represented; the child and her parents have separate (free) legal representation and it is possible for grandparents, another parent or other relatives to seek leave of the court to be represented. The Local Authority too has its lawyers. The combination of the need to investigate all allegations of suspected harm, the need to provide evidence of harm, and the adversarial nature of the proceedings influences the social workers' approach to their work. Their initial contact with a family, even sometimes if the parents themselves have asked for help, takes place in the context of their knowledge that, if the child turns out to be 'in danger', as social workers, they will be expected to provide evidence in court against the parent.

Diagram 1: The Legal System of Child Protection.



see that the time between the application for the interim care order and the final hearing is not more than 12 weeks. However, it is usual for cases to take much longer than this and, if expert witnesses (for example, medical specialists) are required, cases frequently take 6 months or more from initial application to final hearing.

The fact that this paper has started by outlining the legal situation reflects the importance of the law in determining English child welfare practice. However, there are other important influences on the functioning of the system; first, the central control of the Department of Health and, second, the level and the focusing of the resources that are made available.

Central Control, Local Control, and the Administrative System

Although the level of central control of the child protection system has grown steadily, it increased markedly from the time that the Children Act was passed. If the years leading up to 1989 were marked by the shift from a welfare to a legal discourse, the shift after 1989 from a legal to a managerial discourse was equally profound. The language of debate moved on from evidence and proof to accountability and transparency. Team leaders became team managers and clients became users.

The managerial approach permeated all leve ls of the system and each Local Authority has its guidelines and handbooks of procedure. But although the social work service for child protection is the responsibility of the Local Authority, it is heavily regulated by guidelines published by the Department of Health (DoH). The DoH aims to promote co-operation between different services and agencies and consistency between the responses of different Local Authorities. The level of regulation has grown steadily over the last 20 years. The most important of the guidelines are outlined below. The guidelines and other DoH publications provide the structure for the formal child protection procedures that precede and accompany the legal system for child protection.

'Working Together to Safeguard Children' (Department of Health, 1999)

This document outlines the most important of the DoH strategies for ensuring interagency co-operation. The first version of this document was published in 1976 and it has been developed and updated at intervals - the latest version came out in 1999, with a

significant change in name from *Working Together to Protect Children* to *Working Together to Safeguard Children* (DoH, 1999). Its main principle is that safeguarding children should be considered in the broader context of meeting the children's needs and offering the family support, and that services should be provided to strengthen parenting capacity. It directs that each area should set up an Area Child Protection Committee (ACPC), with members from social services, the police, education, and health services.

The ACPCs have a number of tasks, which they delegate to different services. They are responsible for the establishment of the child protection register, which holds the names of children in the area deemed to be 'at risk'. They are responsible for the management of child protection conferences (CPCs) and for the provision of interdisciplinary training. The CPC makes the decision whether a child's name should be placed, or remain, on the child protection register. The guidelines define child abuse in four categories: physical abuse, emotional abuse, sexual abuse, and neglect.

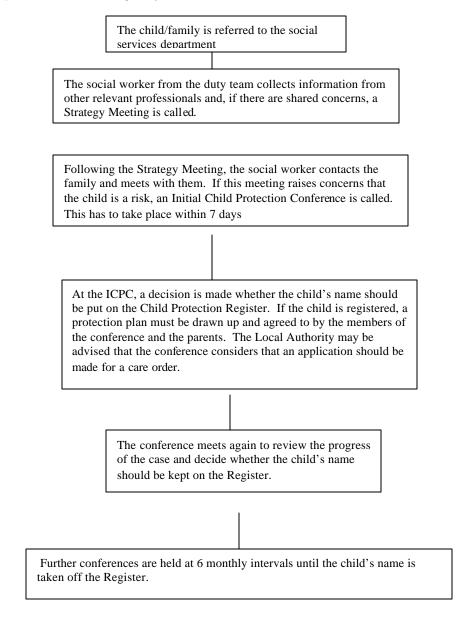
If a child is assessed as being 'at risk' or 'in danger' of abuse in any of these categories, the social services department must call an initial child protection conference (ICPC). A member of the social services department usually chairs the ICPC. All those concerned with the child should be invited, so the meeting can be quite large and could include, if relevant, the health visitor, teachers, nursery school employees, a school nurse, the general practitioner, a paediatrician, residential child care staff, or a foster carer. The Local Authority social worker will always be present and, if necessary, the police. The Local Authority solicitor may be present in an advisory capacity, and the guardian (if one has been appointed) as an observer. The parents are normally invited, although they may be asked to leave for some part of the meeting. Teenagers are sometimes invited, younger children ver y rarely. The purpose of the conference is to decide whether the child's name should be put on the Child Protection Register (CPR), and if so, to decide on a protection plan for the child's

safety. The conference does not decide whether an application will be made for a court order; that is the responsibility of the Local Authority, (although the ICPC chair may recommend this). Following the ICPC, a core group meeting (which includes the parents) has to be held within 10 days. After the initial child protection conference, there are regular follow-up conferences until it is considered safe to remove the child's name from the register.

In complex and risky situations, it is sometimes necessary, before calling an ICPC, to discuss joint action with other age ncies. In this situation, a Strategy Meeting is held between those agencies most directly involved, which will usually involve the police as well as the social services. At this meeting, plans will be made for taking any necessary emergency action, holding a child protection conference and/or initiating further inquiries. The Guidelines to the Children Act 1989, Introduction and vols. 1-10 (Department of Health 1991-92)

A series of guidelines to the Act were published by the Department of Health giving more detailed instructions on the implementation of the Act. They cover, among other things, court orders, residential childcare, foster care, and the work of the Guardian Ad Litem. An introduction to the Act (Department of Health 1989) sets out a principle which is of great importance for the everyday practice of the social worker, that the social services should work 'in partnership' with parents. This requirement to work in partnership is not stated in the Act, but the guidelines have a quasi-legal importance for social workers; they are expected to follow them unless they can produce a <u>very good reason</u> not to do so. So the social workers' duty to work in partnership with parents is second only to the duty to make the child their prime concern. These potentially conflicting priorities reflect the responses to, on the one hand, the inquiries into child deaths of the 1980s (London Borough of Brent, 1985; London Borough of Greenwich, 1987) and, on the other, the Cleveland inquiry of 1988 (Secretary of State for Social Services, 1988).

Diagram 2: The Pre-Legal System of Child Protection.



The role of the ICPC is first to decide whether the child's name should be placed on the Child Protection Register, and under which category of abuse and, second, to agree a plan for the protection of the child. A social worker has to be allocated to the case. The decision whether to seek a court order is the responsibility of the Local Authority, but the IPCP can advise. The allocation of social work resources is the responsibility of the Local Authority, but agreements about the resources available are usually a part of the child protection plan. 'Protecting Children: Messages from Research' (Department of Health 1995)

After the Children Act of 1989 had been in operation for four years, the Department of Health published a summary of research projects, usually referred to by the abbreviated title *Messages from Research*. The research projects provided evidence that the child protection system was drawing in many children who were found not to need protection. The summary of the conclusions drawn from the research gave two messages that were of particular importance to the Department of Health. First, the importance of the context of abuse. Second, that too many cases were initiated as child protection and then, when the children were found not to be at risk, no services were offered. There was a call for professionals:

to work alongside families rather than disempower them, to raise their selfesteem rather than reproach families, to promote family relationships where children have their needs met, rather than leave untreated families with unsatisfactory parenting style (Department of Health, 1995, p.55).

One study (Gibbons, Conroy, & Bell, 1995) found that rates of registration between Local Authorities with similar demographic and socio-economic profiles varied widely and that only one in seven children whose situation was investigated were placed on the register. Farmer and Owen (1995) found that parents experienced the child protection procedures and the conference as intimidating and that even those mothers who had themselves asked for help, rather than being referred by others, felt blamed and let down by the system. After the conference [ICPC], 70% of the parents were unhappy about their experience. More encouragingly, a study of parental participation (Thoburn, Lewis, & Shemmings, 1995) found that, in most cases, it was possible to achieve a significant degree of partnership with parents, even where there was disagreement. Whether or not parent s agreed with the professionals, they valued workers who showed warmth and listened to what the parents had to say. <u>'The Framework for the Assessment of Children in Need and their Families' (Department of</u> Health, 2001)

The most recent guidelines reflect the impact of *Messages from Research* and demonstrate a shift in official thinking from concerns about failures to protect children to concerns about the failure of the system to make family support available where there were problems but not (or not yet) abuse. The *Framework for Assessment* (as it is usually called) sets out a structure for assessing children who may be defined as being 'in need' under s. 17 of the Children Act of 1989. The theoretical basis for the framework is holistic and ecological. There is an emphasis on the importance of taking account of the child's surroundings, her cultural context, her family and wider family, and the child's life experience as a whole. As a textbook, it gives a clear, well-researched and well-organised account of the process of a thorough assessment of a child's developmental state, the family strengths, and any needs for social support or specialist intervention. However, it is more than a textbook. It is accompanied by procedural requirements defining the time within which the assessment should be made and forms on which the assessment should be recorded. The time schedules depend on the complexity of the assessment required. An initial assessment should be completed within seven working days and a core (more detailed) assessment should be completed within 35 working days. The form to be completed for the core assessment of a child of 3-4 years is very detailed, being 32 pages long.

Resources

The Supporting Structures of Universal Services

The resources available for child welfare and child protection are part of a wider resource base for all families. The most important aspects of this are health services, education services, and family income support benefits.

Health services: The National Health Service is a universal health service free at point of use. Hospital services, child and adolescent mental health services, and some community services are provided by independent trusts. Changes currently taking place aim to shift

power from the hospitals to the primary care sector (general practitioner [GP], community nurses and other community based resources). Each person is on the list of a GP and it is the norm for family members to have the same GP. Community paediatric health services provide a mother and baby health service. All children under five are 'on the books' of a health visitor (community paediatric nurse) and there is a school medical service. The health visitors have an important role in child welfare services. Although they focus mainly on infants and the early years routine health checks and immunisations, they also give advice on child rearing, and they are often the first people to know that families are in difficulty. Because they are a universal service, they are generally seen as a more acceptable and less stigmatising source of help than Social Services. As well as being a major source of referrals, health visitors have a role in monitoring parents where there are child protection issues and are usually involved in child protection plans where there are children under five. Like all the other health services, they are under resourced and under staffed.

Education and pre-school care: Compulsory school is from five to fifteen. Increasingly there are nursery school places available for children of four, and the aim is to extend nursery school provision to three-year-olds. Some Local Authority Social Services Departments run nurseries which take children referred by the social services for welfare reasons, and which are open during school holidays and for longer than school hours. There are also many private nurseries and nursery schools, serving mainly families where both parents are in paid employment. There is a shortage of provision for pre-school care for single parents or one-income families. There is also a shortage of after-school centres. The Youth Service, which runs clubs for young people, is part of the education sector. Its services have been much reduced in the last ten years and there are many fewer youth clubs than there used to be. In many areas, leisure facilities for young people are very poor. Schools are supposed to have a designated teacher who acts as a source of information and consultation

for the staff on child protection issues and handles liaison with social services in cases of possible abuse.

Welfare benefits: There is an extremely complex system of benefits for parents with children. It is still one of the least generous in Europe (Lobmeyer & Wilkinson, 2000), although child benefit levels have improved recently and there are some tax reduction supports for working parents on low incomes. There is an effort to help mothers to return to work and some benefits are focused on enabling this (e.g. financial support for child care). There have been recent government initiatives to increase support for families in socially marginalized areas.

Services for the support of families in difficulties

Local Authority Social Services Departments provide some family support, delivered by their social workers and by 'family workers', who usually lack formal qualifications. Most family support services are now provided by non-governmental organisations (NGOs). They are usually charitable organizations employing qualified staff. There also are services provided by commercial or private 'for -profit' agencies (mainly residential care services). The NGOs include residential care, family placement (fostering) agencies, family centres of various kinds, drop-in centres, case work and counselling services, and advice agencies. The NGOs are funded partly by the money that they raise as charities, and by charging the Local Authority for their services and/or increasingly by direct government grants. The Local Authorities used to provide most of these services themselves, but since the early 1980s they have been expected to contract them out to NGOs.

Sources of Funding

The main source of funding for Child and Family Services is through the Local Authority, either from the revenue of local taxation or through support from central government. There is considerable debate over the realities of the levels of funding available.

Practitioners feel that resources are continually diminishing; politicians (both local and central) say that there is more money in the system than there used to be. What is quite clear is that there are fewer social workers and there currently are many unfilled social work posts, particularly in Local Authority Children and Families Teams in the inner cities⁵. At the same time, the workloads steadily increase. The re has been some transferring of resources. For example, residential care services have been reduced and there has been an expansion of foster care, which is a cheaper option. The legal system absorbs substantial resources, both indirectly and directly through the costs of social workers attending court and writing reports for the court, as well as through work of the Guardian, and the legal departments. The child protection conference system also requires a great deal of time for meetings and report writing. Money is not usually available for preventive work, although there may be services that can be used *after* a crisis. Social worker's time is *always* in limited supply.

Resource Problems

The Children Act of 1989 was put into operation in 1991 in a wider socio-economic context of increasing resource constraints on all aspects of Local Authority spending. This prevented the hoped for developments in services for children in need. Restricted resources had to be reserved for meeting the Local Authorities' statutory duties in relation to child protection. There was also an emphasis by central government in developing a more 'hands-off' approach by local government, so that Local Authorities were told to contract out services. In child welfare, this encouraged the development of independent agencies in residential childcare, fostering, the provision of after care for young adults leaving State care, family services, and family support.

The new diversity had advantages, but was affected by the focusing of services on child protection, so that agencies which had previously provided broader family support services were now only funded to provide child protection services. For example, a family

centre run by a well-established family welfare charity previously offered residential services for the whole family and was originally intended to provide a programme of assessment and treatment for dysfunctional families. Families were expected to stay for 3 to 6 months (sometimes more). The Local Authorities using the Centre ceased providing funding for families attending the centre, except for the purpose of an assessment of their parenting for the court. The families were expected to stay for 6-8 weeks.

There are two central resource problems. First, the resources available to Local Authorities have diminished and, second, what is left has been focussed on mandated child protection concerns. The Audit Commission (1994) pointed out that the lack of preventive work with families led to more being spent on child protection and State care, which was not cost effective. There is an effort to create a better balance between child protection and family support, but this has proved difficult. The *Framework for Assessment*, published 6 years later, is a continual effort to foster an improved balance. A recent Children Act Report connected that the Social Services Inspectorate found that:

the general picture was one of scarcity, and thresholds for services were high. Other agencies continued to report that identifying child protection concerns was the key to unlocking service (Department of Health, 2001, p. 49).

Recent Changes in Patterns of Resourcing

Recently, there have been central government initiatives to promote the development of local services and support social inclusion. The *Sure Start* programe is a system of grants for local initiatives for services for children under four and their families. This was created in 1998 and the services and supports that it finances are just beginning to become available. In 2000, the *Children's Fund*, a similar programe of support for services for older children (roughly five to thirteen year old) was announced. *Connections* is another initiative aimed at providing support for 13-19 year old children (21 if they have a disability). These developments have the effect of shifting more of the control of resources from local to central government. New money is going to initiatives shared between local communities and central government (the Sure Start model), rather than to restore the diminished services of Local Authorities.

How the System Works in Practice

Up to this point, we have looked at the system in terms of legislature mandates and service delivery structures. But a description of the legal frameworks and structures does not give a picture of the system in action. What does it all look like from the point of view of parents who, whether they like or not, are involved with the system? What is their journey through the system? The following case is based on a parent's account⁶. All names have been changed and identifying details altered. The events in this story took place in the mid 1990s, before the *Framework for Assessment* was published, and illustrates the problems that the *Framework* seeks to address.

Elizabeth's story unfolds over several years, and started when she was herself in care as an adolescent. She had a social worker then, and again later, when she was in a mother and baby unit, but she moved to another borough, and for two years she was out of contact with social workers. Her health visitor introduced her to a support group in a family centre run by parents. She went to social services because she was hitting her eldest daughter, who was three years old. The children were put on the Child Protection Register and she was allocated a social worker. Nursery school places were arranged for the children. Then the children were taken off the Register after about 6 months, and the social worker stopped offering her appointments. Things went downhill again and, in December, Elizabeth asked her social worker whether she could go to the residential family centre. She was put on the waiting list – and waited. She commented "I can't see the sense in someone asking for it and then having to wait till something drastic happens for them actually to do something". The children were put back on the Register. Elizabeth knew that being on the Register was the

best way of getting help. "I just went along with whatever they said, because they know best... That's the only way to get the help that I'm getting now – to let them be on the Register."

However, she found the conference frightening [ICPC]. "It was like I wasn't there, as if they were talking about someone else". She felt that the family centre worker was there "to give evidence" and, although she was told that the conference would only consider matters of fact, not hear-say, she felt that this was not the case. She felt that she was being judged. Elizabeth had mixed views about her experience. She had got on quite well with her most recent social worker. She was able to go tell her when depression was coming on so that "it's like I've warned her". But she could have done with being given help before the children were registered. "They [the social workers] have to see that there is a major problem first."

Elizabeth's experience demonstrates the problems caused by lack of resources and by the redirection of resources. She risked losing support if her children's names were taken off the Register. When she waited for a place at the residential family centre, she experienced the effects of the switch in resources from family support to child protection. She wanted help, and used it thoughtfully to prevent problems, warning her social worker when things were going badly. She could see how destructive it was to have to wait while things got worse before being able to get help; as doubtless could her social worker. She found the process of the Child Protection Conference [ICPC] intimidating. It was frightening because it could lead to her children being taken away. But she knew she needed help, so she had to go along with the system. Elizabeth's views echo the findings of *Messages from Research*. Although she was able to build a good enough relationship with her social worker (although she continued to trust her social worker less than she trusted the support group at the family centre), she found the system alienating.

Elizabeth's story does not illustrate all aspects of the process. Diagram 3 summarises the pathways that a referral can take, depending on the assessment of risk and need. The exact arrangements vary from one Local Authority to another and the description given below sets out the procedures of one borough.

All <u>new referrals</u> are processed by the centralised duty team, which covers the whole authority (in this case a large borough). A decision has to be taken whether or not further action is required. Action could be limited to referral to another agency, but might be for an initial assessment (under the Framework for Assessment) or for a child protection investigation (under s. 47 of the Children Act 1989).

If an <u>initial assessment</u> is undertaken, it might still be decided that no further action is needed, or that the case should be referred to another agency. However, it might be considered necessary to carry out a more detailed, 'core assessment' (see *Framework for Assessment*). During the core assessment, it may be necessary to consider a specialist assessment, for example, an assessment by a clinical psychologist. This should be carried out within 35 days and the family should be offered supportive services while this is going on. Following the initial assessment or during the core assessment, if it were thought that the child was at risk of significant harm, a child protection investigation (s.47) would be carried out.

Following the <u>core assessment</u>, there might be a further, multi-agency core assessment alongside the provision of services. A Child in Need Plan would be developed which would be reviewed every 6 months. If the core assessment had identified that the child was at risk of significant harm, there would be a child protection investigation.

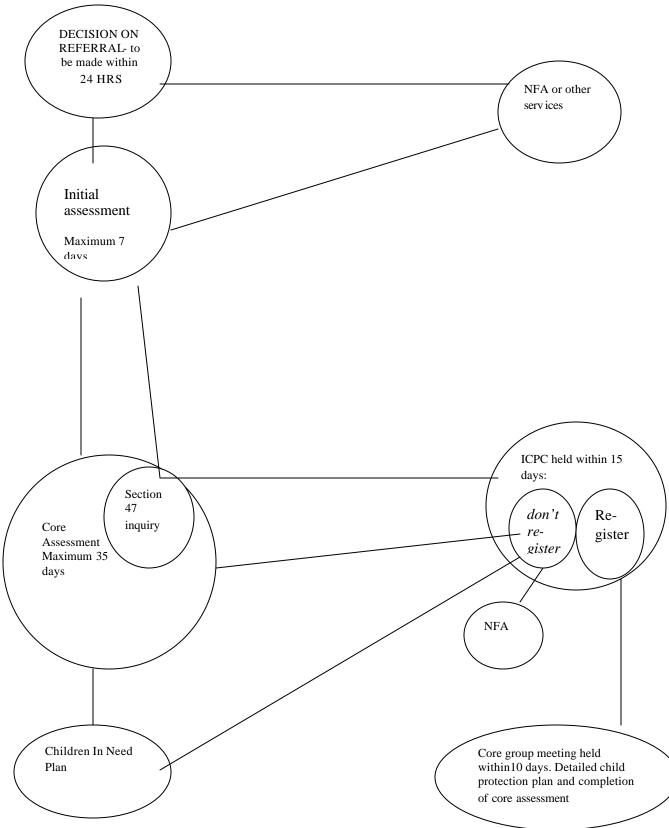


Diagram 3: Using the *Framework for Assessment*. A Journey Through the Child Protection System

Problems with the System

It is proving difficult to make the changes necessary to respond to the criticisms levied in *Messages from Research*. Practitioners did not disagree with the aims of working to empower parents and to improve unsatisfactory and harmful family relationships, but these are not easy goals to achieve. It was possible to make cosmetic changes to such things as numbers of children registered, but working successfully with families in difficulty and parents under stress required time and other resources that were no more available at the end of the 1990s than at the beginning. It also required social workers and their managers to shift their focus from child protection without providing them with much reassuranc e that, if things went wrong, they would themselves be protected from public and media vilification.

The English system is difficult for both social workers and families. It is felt by practitioners to be inflexible and bureaucratic (Hetherington, Cooper, Smith, & Wilford, 1997; Parton, Thorpe, & Wattam, 1997). There are many forms to fill in, deadlines to be met, and guidelines to be absorbed and followed. The social workers are very aware of the problems for parents and children that the system creates. A social worker participating in the Nottingham Project (see below) said:

The child protection register itself is highly stigmatising and works against the concept of consent and undermines people... Going to an initial child protection conference must have a massive impact on families. The process is almost like a judicial process, where at the end of the meeting we decide whether they are guilty or not of the abuse (personal communication).

Social workers feel that they do not have the resources to respond to more emergencies and that this prevents them from supporting families. Yet they are being told that they should work with families and this is what they would like to do.

Parents find the processes of child protection intimidating, both the Child Protection Conference and the courts (Baistow & Hetherington, 1999; Thoburn, Lewis, & Shemmings, 1995). They are very aware that to get resources you have to present yourself as failing and that this is risky, as well as undermining to their self-esteem. They do not feel supported by the system when they are in difficulty, but feel blamed for failing to 'manage'. Asking for help is a last resort.

Responding to Current Problems with the System

In spite of the intensive efforts of the Department of Health [Dott] in issuing guidelines and providing summaries of research, training material, and a wide range of supporting information, there is a great deal of dissatisfaction with the system. Rebalancing family support and child protection is difficult. Research with social workers in children and families teams undertaken in 1999 showed that children in need would get an assessment, but probably very little else unless they were assessed as being 'at risk' (Hetherington, Baistow, Katz, Mesie, & Trowell, 2001). Major problems with limited resources, particularly professional time, continue. On a more positive note, a recent project in Nottingham demonstrates that, with supportive management and a motivated work force, it may possible to make important advances without any major structural change.

The Nottingham Project

The Nottingham Project is a co-operative venture between Nottingham City Council Social Services Department and Children Across Europe, a network of European researchers invested in international comparisons. One of the aims of Children Across Europe is to promote the development of good practice through the study of alternative approaches. Nottingham was selected to pilot some innovations since it has a high volume of child protection activity, with high number of children on the Child Protection Register and high numbers involved in care proceedings.

A project manager⁷ was employed to develop and implement a 12-month action plan. A focus group is being used to gather the views of workers from different agencies in relation

to child protection practice. The focus group also will look at various European models and, using case studies, consider the development of different approaches.

The Issues Identified

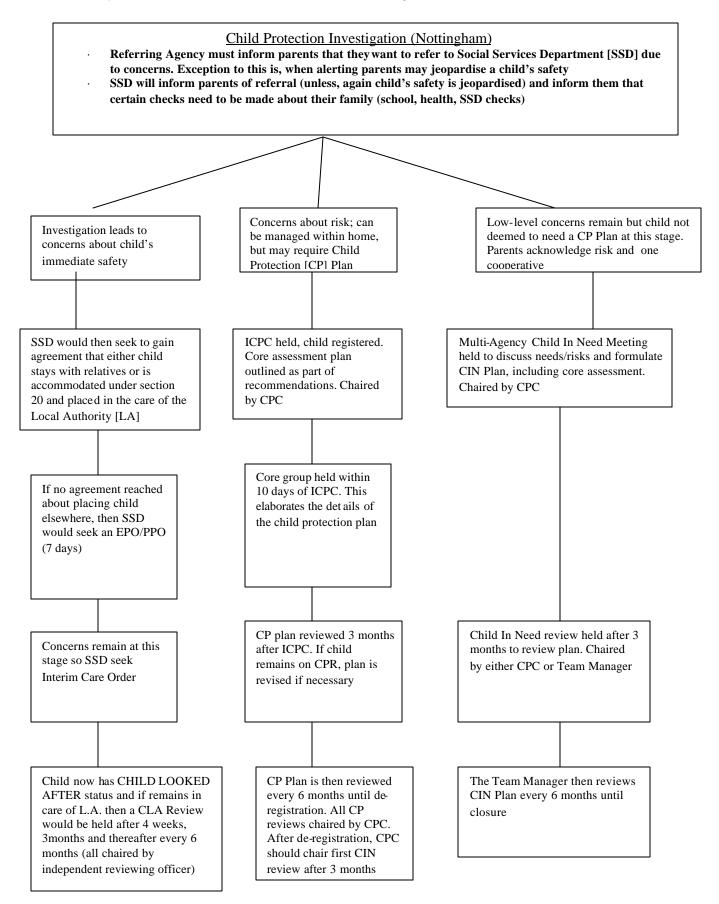
At the beginning of the Project, an analysis was made of statistical information. One important finding (reflecting the findings of *Messages from Research*) was the inequity between the numbers of children going to conference and the numbers actually registered – the average over a 9-month period (April 2000 to December 2000) for children registered was 61%. This meant that 39% of children presented to conference were not subject to registration and therefore did not require a child protection plan. Many families experience these meetings as stressful and feel their parenting is judged as being inadequate, so there is good reason to look for alternatives to such families being presented to Conference. The following figures regarding child protection activity in the month of June 2000 supported the need for further scrutiny of practice, decision-making, and risk management:

- · 32% of all enquiries led to a child protection investigation (Children Act 1989 S.47)
- 46% of child protection investigations resulted in an Initial Child Protection Conference (ICPC).
- 54% of children who were the focus of an ICPC were registered.

At the same time as the Nottingham Project was developing, the local implementation of the *Framework for Assessment* was taking place.

The project needed to take account of the current climate in which social workers and other professionals work, and the historical influences that have shaped the way they work with children and families. As already described, social work in the U.K. has become proceduralised and bureaucratic. Ensuring that children's needs are met can be secondary to the actual process of investigation. Social workers have to face contradictory messages in working with children and families and in assessing and managing risk.

Diagram 4: Flow Chart of a Child Protection Investigation.



In order for change to occur, practitioners need to feel safe and supported. They need to know that there will be shared responsibility and accountability for decision-making. The Project sought to introduce ways of working with families which would ensure that child protection processes are not invoked unless necessary and which would ensure that workers feel safe to practice in this new way.

The Themes

The Project drew on comparative research that looked at the child protection systems of some other European countries⁸. Key themes of subsidiarity, negotiation and reflective practice emerged from the comparison of different systems (Hetherington, Cooper, Smith, & Wilford, 1997).

Subsidiarity

The political philosophy of subsidiarity promotes the use of the lowest level of intervention consonant with the effective resolution of the problem. The first resource should be the family, then the local community, then the region, and then the national state. What can be done by a non-governmental organisation should be. Schäfer (1995) describes subsidiarity as an ambiguous concept open to widely varied interpretation:

The liberal, anti-collective and anti-state aspect of the principle of subsidiarity demands abstinence and non-interference by the state... On the other hand [the principle] allows ne ither the state nor any other 'large community' to escape from its duties... The larger community must support the smaller ones in their activities (p. 53).

In relation to child welfare, subsidiarity leads to an emphasis on the importance of working at the most local and least formal level that is effective:

This means that whatever smaller and more localised institutions or groups can do on their own must not be removed by a higher level of competence or

by power of the State. Responsibility and decision making should rest with the people most involved (Hetherington, Cooper, Smith, & Wilford, 1997,

p.83).

Negotiation

The resolution of disputes through negotiation is commonplace in some contexts, but requires a formal space where discussion and argument can take place before the law is involved. When the law could and might be invoked, there is an impetus to reach agreement or the partial resolution of a conflict and this can be used to support a negotiated rather than an imposed solution. Conflicts over the protection of children and the rights of parents are conflicts between the State and the parent. In many countries, there is some provision for reaching a negotiated solution to child protection disputes between parents and social workers. The location of this provision within the system varies, but a space is created for negotiation between the parents and the social workers under the auspices of another person or group. There is a link to the principle of subsidiarity in the assumption that, in most situations, a resolution should be found at the voluntary level and that negotiation should be tried before compulsion is used.

Reflective practice

The professional authority and confidence of the social work profession depends on a readiness to use their relevant knowledge base in conjunction with a critical awareness of the impact of subjective experience on practice. The development of reflective practice requires the input and support of a supervisor or team who will enable the worker to reflect on the process of her work and explore alternatives. The support of a team can help the social worker to locate her own responses to a family's situation in the wider context of the expectations of the community. Without a well-founded professional confidence, social workers neither could nor should abandon the safety of following rules and guidelines.

The Project Manager focused on developing strategies that would incorporate the main principles from these themes. The Project aims to create structures that flow from the application of general principles to particular situations, rather than seeking to correspond primarily to managerial and administrative expectations.

The Strategies

Subsidiarity

In order to translate this principle into local practice, the Project is developing strategies promoting the use of non-statutory approaches. One of these is to ensure that consultation structures are put in place before Child Protection Conferences [ICPC] are needed. This will help to avoid the introduction of a higher level of power than is necessary. It also will filter out families where risk is manageable by means of a 'child in need' plan, negating the need to have a Child Protection Conference (or register the child) by promoting voluntary agreements between the Social Services Department, children, and families.

The Structure of the Child in Need (CIN) Meeting

The new procedures will state that consultation should take place with a Child Protection Co-ordinator (CPC) before a decision is made to proceed to hold an Initial Child Protection Conference (ICPC). This will serve to share responsibility and accountability between the social worker, her team manager, and the CPC. In addition, it will allow an opportunity for the social worker and her manager to reflect on their decision-making and explore other options, prior to holding an ICPC. Holding a multi-disciplinary CIN meeting would be one option.

New developments have to respond to the likely anxieties of the social workers. Workers will feel anxious about cancelling an ICPC, so the official status of the CIN meeting needs to be raised. It has therefore been recommended that an independent worker should chair this meeting. The impartiality and independence of the chair potentially will give

preventative/family support work the same status and authority as child protection work, where there is an independent chair⁹.

In December 2000, there were approximately 415 children on Nottingham city's Child Protection Register. In December 2001, there were 307 children on the Register. The work of this project has contributed to this 26% reduction.

Negotiation

Negotiation and mediation are key issues in seeking to find solutions/agreements to keep processes at the lowest level possible. Systems need to be in place to act as a buffer to more intrusive legal intervention into family life. A negotiation meeting will be introduced to operationalize these goals. This will be led by two workers acting as 'mediators', from agencies other than the Social Services Department. A Family Mediation Service has agreed to second a worker to this project one half day a week. This worker is skilled and experienced in mediation, but also has significant child protection knowledge; the second worker is a manager from a local Sure Start program. This worker also has both family support and child protection experience.

The Structure of the Negotiation Meeting

Use of the meeting will be open to families, social workers, and other professionals. Families will be able to request a negotiation meeting if they feel that they are experiencing problems with their social worker. Social workers who feel they were not making any progress in their work with a family will also be able to request a meeting. Workers from social services and other agencies will be able to request a meeting if, for example, they fell that the family of a child on the Child Protection Register is not being cooperative, or where plans are seen as not working and concerns remain.

The aim of the negotiation meeting will be to hear the views of the main parties involved and to attempt to broker an agreement to avoid the use of the child protection

system. The two mediators will first meet with the family in order to ascertain how they view the situation and why things have become "stuck". They also will seek to find out how the family members feel communication could be improved and how they might be helped to work together with the Social Services Department to try to avoid more intrusive intervention into their family life. The mediators then will speak to the social worker and her team manager to identify any perceived barriers to working effectively with the family. Following this, the negotiation meeting will be set up and both parties will attend. The media tors will try to reach a voluntary agreement between the parties. This is the only role of the mediator. They will not seek to make an assessment of concerns but will seek to clarify with all parties what improvements are needed and what the Social Service's Department might do if the situation fails to improve and concerns remain about a child's welfare.

Currently, many of these cases go to court in the absence of any other options. The court process is difficult for parents, expensive for the State, and time consuming for everyone. Although negotiation will not be successful in all cases, and decisions to invoke care proceedings will be appropriate in certain cases, the use of negotiated solutions has the potential to prevent unnecessary stress and to save money.

This is a new way of working and information sheets have been circulated to all Team Managers requesting them to discuss the proposals with staff; a leaflet will be available for parents inviting them to take part in the Project. At the time of writing, the Department is undergoing a major restructuring programme and as a result the introduction of the negotiation meeting is being delayed.

Reflective practice

Social workers and their managers often are responsible for working with families seen as presenting high risk and complex challenges. They carry multiple, often contrasting responsibilities, providing both assistance and 'policing'. Ideally, these complexities require

discussion and reflection involving multiple perspectives. With current pressures on social workers and their supervisors, time for this type of discussion and reflection usually is lacking in supervision. Furthermore, organizational cultures are bureaucratic and proceduralised. As a consequence, space for workers' use of professional judgement is limited and they struggle to act with confidence and authority.

The Project is setting up a Consultation Forum which will provide staff with the opportunity to refer cases to a multi-agency group for discussion. The hope is this support will permit social workers to engage with families with more confidence and authority. The Forum will use reflection and discussion to develop individual worker's professional skills and enhance their confidence. The cases that will be bought to the Forum will be considered high risk and complicated, where the team manager and the social worker may feel unsure about how to proceed.

The Structure of the Consultation Forum

The Forum will have a core membership (which will include a Social Services Department manager). Since the Forum will accept responsibility for the advice and guidance that it gives, this core membership will give the meeting Departmental authority allowing workers to feel protected. The Forum will have access to a pool of multi-agency personnel, whom they can invite to the meeting depending on the issues involved. Having access to such broad consultation, will provide social workers with opportunities to develop a wider understanding of issues and options for helping. Having action plans underpinned by a Departmental strategy for working with a particular family will increase their professional confidence and authority.

The Present Stage

The Project is now entering its final phase and hopefully an external evaluation will test the effectiveness of the model. As with all such ventures, the development of the Project

is affected by events in the broader system. The reorganisation of local government structures and the introduction of new public initiatives to combat social exclusion are two recent developments that have impinged on the Project and may have unforeseen implications.

The Future of the Child Welfare System

At the time of writing, the English child welfare system may once again be on the brink of change and, once again, these changes will stem from an inquiry into a child's death. In 2001, a child in north London was abused and murdered by her aunt and her aunt's partner, who were her caregivers in a private fostering arrangement. The local Social Services Department knew the family and the child had been seen by social workers and by paediatric staff at the hospital, but the system is seen as failing to provide her with protection. The case has shocked and depressed the social work profession, where morale was alre ady low. A government inquiry¹⁰ was set up to investigate the reasons for the failure of the system and to make recommendations about changes that might be needed. This inquiry will not report until later in 2002.

The investigation is expected to suggest changes to the service structures responsible for child protection and may recommend wider changes that affect the whole field of child welfare. One possible development might be the removal of child protection from Local Authority management to a central government agency, which would continue the trend towards centralisation. The anxiety is that the report will follow the path trodden by earlier inquiries and suggest tightening regulations leading to a proliferation of guidelines. The hope is that, whatever structural changes may be suggested, something will be done to reverse the dependence on forms and rules and to formulate different principles for the functioning of child welfare.

The kinds of change being promoted by the Nottingham Project are not dependent on specific service delivery structures. They are an application of particular principles to processes which are already in place, an attempt to modify and/or support what already exists. The principles that currently guide the functioning of child welfare in England are managerial principles of accountability, transparency, and service delivery controls within a hierarchical framework. Applying these managerial principles gives the system some benefits. For example, there are formal structures for co-operation between agencies. The publications of the Department of Health disseminate new research and provide the basis for a common approach, and co-operation between services and professions. The system is formally transparent and families know what is happening to them.

But managerialism leads to increased rigidity, paper work, stricter time scales, and an emphasis on the use of approved procedures. Managerial principles do not foster trust in the professionalism of individual workers, either by service users, other professionals or service managers. The current emphasis may hinder the negotiation of ways forward that are, in reality, the best of several imperfect options. Improving family support, the current goal of the system, is not likely to be compatible with existing managerial methods. Families have complex and untidy needs, which change unpredictably or may fail to change, and require long term assistance. Successful preventive work is hard to measure, and stasis may not be failure; it may be the best possible outcome. Trust takes time to build, but without trust between families and professionals as well as between different professionals, communication with children and partnerships with parents lacks substance and reliability. More effective intervention requires trust, the ability to negotiate disagreements, and the authority to take action.

Whatever changes are recommended by the inquiry, the way the new arrangements operate will depend on the principles on which they are based. The development of the

English system demonstrates how changes in the underlying discourse have shaped the way in which the work is carried out. It is not possible or desirable to go backwards, and a return to the welfare discourse of earlier years is not the solution. The issue now is how to develop a new discourse that incorporates the attention to rights and to accountability of the legal and managerial discourses, while responding to the human complexity of family life and to children's needs. There is an opportunity to dismantle the parallel tracks of child protection and family support and to realign the system on the unifying concept of children's welfare. Changes in formal structures might support such a change, but will not of themselves bring it about. We need to change how we think about child welfare.

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¹See Parton, Thorpe, and Wattam (1997) *Child Protection: Risk and the moral order* chapter 2.

² For a full account of the developments leading to the passing of the Children Act 1989, and a discussion of the changes made (Parton, 1991).

³ In 1999/2000 there were 6,298 care orders (SSI 2001).

⁴There are specialist teams within the social services department, the Children and Families teams, which undertake work with children in need, children at risk, and children in need of protection.

⁵ In 1999 there were between 20% and 40% unfilled social work posts in London boroughs (SSI report 2001). ⁶ This story was told to us by one of the participants in a research project comparing parents' experience of the child welfare system in England and France (Baistow & Hetherington, 1999).

⁷ The project is organised by a part-time project manager funded initially for one year by the National Society for the Prevention of Cruelty to Children (NSPCC). The project has the support of the British Association for the Study and Prevention of Child Abuse and Neglect (BAPSCAN). The impetus for the project came from comparative research carried out by researchers at the Centre for Comparative Social Work Studies (Brunel University), the Tavistock Institute and the Practice Development Unit of the NSPCC.

⁸The countries were Belgium (Flemish speaking and French speaking communities), France, Germany, Italy, Netherlands, Scotland and England.

⁹Currently the team manager chairs CIN reviews unless it is a borderline case in terms of risk, in which case the chair will be a child protection co-ordinator.

¹⁰ The Victoria Climbié Inquiry was set up by the Secretary of State for Health and the Secretary of State for the Home Department. It is an independent inquiry investigating the circumstances leading to the death of Victoria Climbié and to recommend action to prevent such a tragedy happening again. At the time of writing it has not yet reported. For further information see www.victoria-climbie-inquiry.org.uk



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