



DEPARTMENT FOR EDUCATION AND SKILLS

THE GOVERNMENT'S RESPONSE TO THE HEALTH COMMITTEE'S SIXTH REPORT OF SESSION 2002-03 ON THE VICTORIA CLIMBIÉ INQUIRY REPORT

*Presented to Parliament by the Secretary of State for Education and Skills
By Command of Her Majesty
October 2003*



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HOUSE OF COMMONS HEALTH COMMITTEE SIXTH REPORT OF SESSION 2002-03 ON THE VICTORIA CLIMBIÉ INQUIRY REPORT

GOVERNMENT'S RESPONSE

- 1. The paediatric units throughout the country should be instructed to review their arrangements for ensuring continuity of care, supervision of junior medical staff and medical audit. (Paragraph 36)**

We agree with the Select Committee that this is vital. Indeed on 28th January 2003, the day of publication of the Victoria Climbié Inquiry Report, Government Ministers sent out a checklist of all the recommendations that represent basic good professional practice to the Chief Executives of all NHS bodies. They were asked to guarantee, within three months, that this basic good practice was in place. The same checklist was also sent to councils with social services responsibilities and police forces.

The checklist was followed up, for NHS bodies, with a self-audit tool from the Commission for Health Improvement, to assist senior managers in assessing whether or not their organisations were meeting all the necessary standards.

The recommendations from the report that were included in the checklist cover the issues set out above, so that all NHS bodies, including all paediatric units, have reviewed these issues.

In addition, improving the safety and quality of patient care are at the heart of the Government's agenda for modernising the NHS. New policies, programmes and structures have been introduced since 1997, which have created in the NHS the conditions for a comprehensive approach to assuring and improving the quality of care and patient safety – setting, delivering and monitoring standards. These include clinical governance and clinical audit. This agenda is underpinned by the Health Act 1999, which places a statutory duty of quality on all NHS organisations that provide direct patient care.

The National Service Framework for children is intended to set standards of care for children in all settings. The first standard of the NSF, covering services for children in hospital, was published on 10th April 2003. This addressed many of the issues raised in the Victoria Climbié Inquiry Report which relate to Victoria's treatment in hospital. In particular, the hospital standard covered issues such as the importance of continuity of care and how this should be achieved, and this theme is likely to be stressed throughout the NSF. It also covered record keeping.

The Modernisation Agency will be working to support implementation of the Hospital Standard through its programmes on clinical governance and leadership.

2. We urge the Department of Health to examine whether current health service priorities have had deleterious effects on local priorities for children and families. (Paragraph 44)

We do not believe that current health service priorities have undermined local priorities for children and families. Issued in October 2002, the document 'Improvement, Expansion, Reform – the Priorities and Planning Framework 2003-2006' (PPF) describes the vision for services over the next three years, and how national commitments translate into targets for the NHS and social services. These targets focus attention on the areas where we know it is important to drive up performance and offers a balance between clinical and non-clinical priorities.

The National Service Framework for Children, Young People and Maternity Services, to be published in full in 2004, will set standards against which health and social care organisations will be inspected.

This is supported by new performance management arrangements introduced as part of the 'Shifting the Balance of Power' programme of reforms which place a greater emphasis on the responsibility for performance management of the local NHS being vested with Strategic Health Authorities. More and more decision making power is being devolved to the frontline with the Department taking an increasingly light touch approach to enable the service to plan for and focus on delivery supported by three year budgets. This gives local NHS organisations the freedom to take local priorities and needs into account when planning local services. Empowering the frontline with the flexibility to address these local priorities will ensure that services such as those for children and families are tailored to best suit local needs.

Children's Trusts are an initiative to encourage more joined up working between health services and local authorities. This has raised the profile of children's services, and there are 35 pathfinders already working on this as a priority. In addition, the Green Paper describes Children's Trusts as the preferred model to integrate key services into a single organisational focus for all local areas. This means that all Primary Care Trusts are going to have to consider how they address children's health services, and what sort of integration is required locally. Working with local authorities will add to the capacity to effectively manage the commissioning agenda.

3. We agree with the arguments made by the ADSS, and in the past by the King's Fund, that there should be an independent review of funding for social care, along the lines of the Wanless review of the NHS. We recommend that the Government should commission an urgent review of the factors influencing demand for social care for children and adults, and consider the adequacy of resources currently allocated. (Paragraph 46)

We do not think there is a need for such a review. This is year one of the 2002 Spending Review period, over which period the Chancellor has committed record levels of funding for both health and social care. We believe that the priority now is to ensure that these large increases in resources are used to produce the maximum benefit for users rather than to begin another review of the level of funding for social care.

4. **If, as Lord Laming believes, the Victoria Climbié case was not unique, but highlighted widespread and major deficiencies in the implementation of the Children Act, this raises issues that Government should address. We believe that the Children Act 1989 remains essentially sound legislation. However, we are concerned that the provisions of the Act which sought to ensure an appropriate response to the differing needs of children are being applied inappropriately, used as a means of rationing access to services, and have led to section 17 cases being regarded as having low priority. The Laming Inquiry recommended that consideration should be given to unifying the Working Together guidance and the National Assessment Framework guidance into a single document, setting out clearly how the sections of the Act should be applied, and giving clear direction on action to be taken under sections 17 and 47. We strongly support this recommendation. (Paragraph 49)**

We also support Lord Laming's recommendation, and that is why, on 19th May, the then Health Minister, Jacqui Smith launched *What To Do If You're Worried A Child Is Being Abused*, a clear and concise piece of practice guidance for anyone who has concerns about the welfare of children.

As set out in *Keeping Children Safe: the Government's response to the Victoria Climbié Inquiry Report and Joint Chief Inspectors' Report Safeguarding Children*, we will also be revising the Children Act 1989 guidance in due course, and this issue will be addressed within the revised guidance.

5. **We were somewhat surprised by the methodology adopted for the second phase of the Inquiry, which appeared to us to be a particularly selective model. It seems to us that a more broadly based investigative approach might have been of greater value. Lord Laming defended his choice of method on the basis of the need to "strike a balance between a reasonable examination of the issues and the amount of time and effort and expense that would be necessary to go down other routes." In view of the arguably selective methodology used in developing the full recommendations from the Climbié Inquiry, we recommend that the Government should ensure the forthcoming Green Paper allows full consultation with the widest possible audience and stakeholders. (Paragraph 53)**

The Victoria Climbié Inquiry was a combination of three statutory inquiries into social services, health and the police. Lord Laming was appointed to chair the Inquiry within the terms of reference issued by Government. The content and structure of the Inquiry was a matter for Lord Laming.

Ministers and officials have undertaken consultation with a wide range of key stakeholders – from major organisations to children and young people - via a series of breakfast events, seminars, meetings and visits, in preparing the Green Paper *Every Child Matters*.

The visits and meetings have involved speaking to children and young people from diverse areas (including London, Liverpool, Leeds, Stockport, and Torbay). There is a young people's version of the Green Paper and the Government welcomes further views from children and young people as part of the formal consultation process.

The Green Paper is being consulted upon fully: there will be regional events aimed at stakeholders and practitioners and a significant number of discussions directly with children, young people and parents. The consultation runs until 1st December 2003, and a response form is available to download or complete on-line at www.dfes.gov.uk/everychildmatters.

6. We urge the Government to use the opportunity of its forthcoming Green Paper to remove the increasingly anomalous reasonable chastisement defence from parents and carers in order fully to protect children from injury and death. (Paragraph 55)

We believe that it is vitally important that children are protected with adequate safeguards from violence and also believe that the current legal framework provides this protection. The kind of punishment which results in injury is clearly not reasonable chastisement, and as such is already against the law.

Our position is that smacking is a matter for individual parents to decide. Our public consultation in 2000 showed that around 70% of members of the public who responded were in favour of keeping the status quo regarding the physical punishment of children by parents.

Since October 2000, the Courts have been obliged to take note of the outcome in the European Court of Human Rights of the *A v UK* case. This means that certain factors must be taken into account by the Courts when considering whether a punishment may be described as reasonable chastisement. These factors include the nature and duration of punishment, its physical and mental effects and the state of health and age of the child.

We have asked the Attorney General to keep the use of the reasonable chastisement defence under review to ensure that the legislation, including the Human Rights Act 1998, serves to provide children with adequate safeguards from violence that should never be capable of being justified as chastisement. His findings to date suggest that this defence is being used properly. We have asked him to continue this process of review.

We are working to support parents in other ways of coping with discipline in the home. The Green Paper *Every Child Matters* addresses the issue of support for parents, while we continue to support organisations such as the National Family and Parenting Institute, and Parentline Plus, in providing practical help for parents with difficult children.

7. **We believe it is essential that further structural change and upheaval is not imposed unnecessarily on local government. We therefore recommend that the Government should consider carefully whether the new structure proposed by Lord Laming offers the best fit with arrangements that have emerged following the Local Government Act 2000, and whether revisions are required to ensure new national and local accountability arrangements are properly located within local government structures and mechanisms. (Paragraph 61)**

The Green Paper *Every Child Matters* makes proposals for structural change, particularly that education and social care should come together under a single Director of Children's Services. We believe that this change is necessary to improve services for children and families, and will ensure that new accountability arrangements are properly located within local government structures and mechanisms. In addition, proposals for Children's Trusts will ensure services are brought together in an integrated way, allowing for the development of the most appropriate arrangements in the relevant local area.

8. **If a child protection system has different structures, systems and functioning in different areas, this has the potential to cause serious difficulties. Any arrangement that has the potential to tackle the boundaries between health and social care, and other local services, has much to commend it, and we are interested in the role that might be played by Children's Trusts. However, the model is at present extremely vague. The guidance issued in January 2003 made it clear that there was no single approach to Children's Trusts and that a variety of models might be developed. While we recognise that this could encourage diversity and locally responsive services, we are concerned that the model is currently too vague and there is a danger of new structures and mechanisms running ahead of any coherent strategy. We recommend that the forthcoming Green Paper should provide further clarification on the contribution that might be expected of Children's Trusts, and the nature of the preferred model. (Paragraph 64)**

Children's Trusts are being established to help tackle some of the issues identified by Lord Laming. They will bring together some or all services commissioned and/or provided for children by local education authorities, social services and health. They may also include other services for children aged 0-19, such as Connexions and Youth Offending Teams. Local authorities will be the lead organisations.

The model has been refined, and as set out in the Green Paper, *Every Child Matters*, Children's Trusts will commission services and may provide them directly or contract with other providers. Children's Trusts will be formed using existing legislation, with the flexibilities offered by section 31 of the Health Act 1999 at the core. From the Government's perspective there are three key fundamentals in getting a Children's Trust off the ground:

- There are clear aims and objectives for the Trust and a solid plan for implementation;

- An agreement has been reached by the partners about the governance arrangements that will drive the Children's Trust's agenda and the first meeting is planned; and
- A draft Section 31 partnership agreement has been prepared for the partners to consider.

The Green Paper *Every Child Matters* sets out a long term vision of the integration of education and social care and other key services for children within a Children's Trust, normally led by a local authority. Within the local authority, the Trust will be managed by the Director of Children's Services and will establish a single planning and commissioning function supported by pooled budgets. With these core functions in place, Children's Trusts will be expected to integrate front-line provision. This is expected to include:

- Co-located services such as Children's Centres and Extended Schools;
- Multi-disciplinary teams and key-workers;
- Common core assessment framework;
- Information sharing systems across services so that warning signs are aggregated, and children's outcomes are measured across time;
- Joint training with some identical modules so staff have a single message about key policies and procedures such as child protection and can learn about each others' roles and responsibilities;
- Effective arrangements for safeguarding children; and
- Arrangements for addressing interface issues with other services such as services to parents with mental health problems

Most areas are expected to establish a Children's Trust by 2006.

9. The establishment of a national database for all children under the age of 16 would not necessarily in itself provide an alternative to the existing Child Protection Register, and the arguments around both of these elements need to be separated. (Paragraph 68)

Our position as set out in the Green Paper *Every Child Matters*, and *Keeping Children Safe* is clear: in the short term, training on the purpose and use of child protection registers will be commissioned as part of the training materials to accompany the booklet *What To Do If You're Worried A Child Is Being Abused*. In the longer term, the Integrated Children's System will provide information about whether a child has been the subject of enquiries as to whether or not they are at risk of significant harm, have been subject to a child protection conference, or are subject to a child protection plan, and will therefore make child protection registers redundant. Registers will then be phased out across the country, as the Integrated Children's System is introduced. However, we do not intend to establish a national database.

10. **We believe that establishing a national database for children along the lines envisaged by the Laming Report would represent a major practical and technical challenge that should not be underestimated. However, this is not an argument for not establishing it, and we endorse Lord Laming's recommendation that there should be a feasibility study to explore the value and practicality of setting up a national database for children, and to compare the respective merits of such a system with the Government's own initiative on developing an effective Identification, Referral and Tracking system. (Paragraph 70)**

The Green Paper *Every Child Matters* will encourage professionals to work more closely together, fostering the co-operation and trust that is a prerequisite for information sharing. On the technical side, local authorities are already developing innovative solutions which allow professionals to flag concerns about a child's needs. In time, we expect every local authority to have basic details of every child in their authority and to know when children arrive in or leave their area. The Government will build on this early work and also intends to remove any legislative barriers.

11. **We accept, as Lord Laming has argued, that the precise structures that need to be put in place are to some extent a matter of opinion. However, we believe that the experience in Wales points to the value in pursuing the role of a Children's Rights Commissioner, and we do not believe that this role could be fulfilled by the Chief Executive of a new national agency. We also believe that it is important to recognise the primacy of addressing children's well-being, and there are risks of this becoming diluted within a general responsibility for children and families. We recommend that the Government consider, as a matter of priority, the case for establishing a Children's Rights Commissioner as part of any fundamental review of structural arrangements for child protection arising from the Laming Inquiry. (Paragraph 76)**

We agree that the establishment of a Children's Commissioner will help strengthen the focus on children. This is why the Green Paper *Every Child Matters* has set out proposals for a Children's Commissioner, who will act as an independent champion for children and young people, and represent their views to policy makers. The Commissioner will advise the Government, and also engage with other sectors, such as business and the media, whose decisions and actions affect children's lives. The Commissioner will report to Parliament through the Secretary of State for Education and Skills.

12. **We endorse the recommendation made by the Social Care Institute for Excellence in their position paper on private fostering, that those who provide private fostering services should be subject to a registration process that, as a minimum safeguard, ensures they meet certain basic standards of care. (Paragraph 82)**

As set out in *Keeping Children Safe*, the Government has carried out a review of private fostering, which found that the critical factor in whether or not children in private fostering arrangements are safeguarded is that councils with social services responsibilities take a proactive approach in discharging their existing duties under the

Children Act 1989 and the Children (Private Arrangements for Fostering) Regulations 1991. The standards and monitoring of council activity on private fostering will therefore be strengthened.

National Minimum Standards for Private Fostering will be introduced, which will be enforced through inspections by the Commission for Social Care Inspection. The National Minimum Standards will require councils to take a more proactive approach to identifying private fostering arrangements. The standards will be issued in 2004.

This will be monitored by requiring councils to provide information centrally about the numbers of notifications they have of private fostering arrangements. Councils will start collecting this information from April 2004, subject to the agreement of the Statistics Technical Working Group.

- 13. We agree with the Inquiry Report that in future there must be a clear line of accountability "from top to bottom, without doubt or ambiguity about who is responsible at every level for the well-being of children." We urge the Government to put in place the necessary structural reforms to ensure this unbroken and explicit line of accountability is established as a matter of the utmost priority. (Paragraph 83)**

We recognise that accountability is a crucial factor when safeguarding children. The Green Paper *Every Child Matters* has set out proposals which will establish a clear line of accountability. At national level, there is a Minister for Children, reporting to a Cabinet Minister (the Secretary of State for Education and Skills), bringing together policy responsibility for children's social services, schools, local education authorities, Connexions, teenage pregnancy, family policy, and CAFCASS into a single department.

The Government will legislate to ensure that, at local level, councils are required to have a lead member with responsibility for children's services, and a Director of Children's Services, who will be accountable for local authority education and children's social services. In the long term, services will be integrated under the Director of Children's Services as part of Children's Trusts.

- 14. We are aware that the Government has already taken steps to implement some of Lord Laming's recommendations. However, given the gravity of the situation, we call for the Department to submit to us by the end of 2003 a memorandum indicating progress made to date in implementing each of the recommendations made in the Report. (Paragraph 84)**

Such a memorandum will be provided by the end of the year.



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