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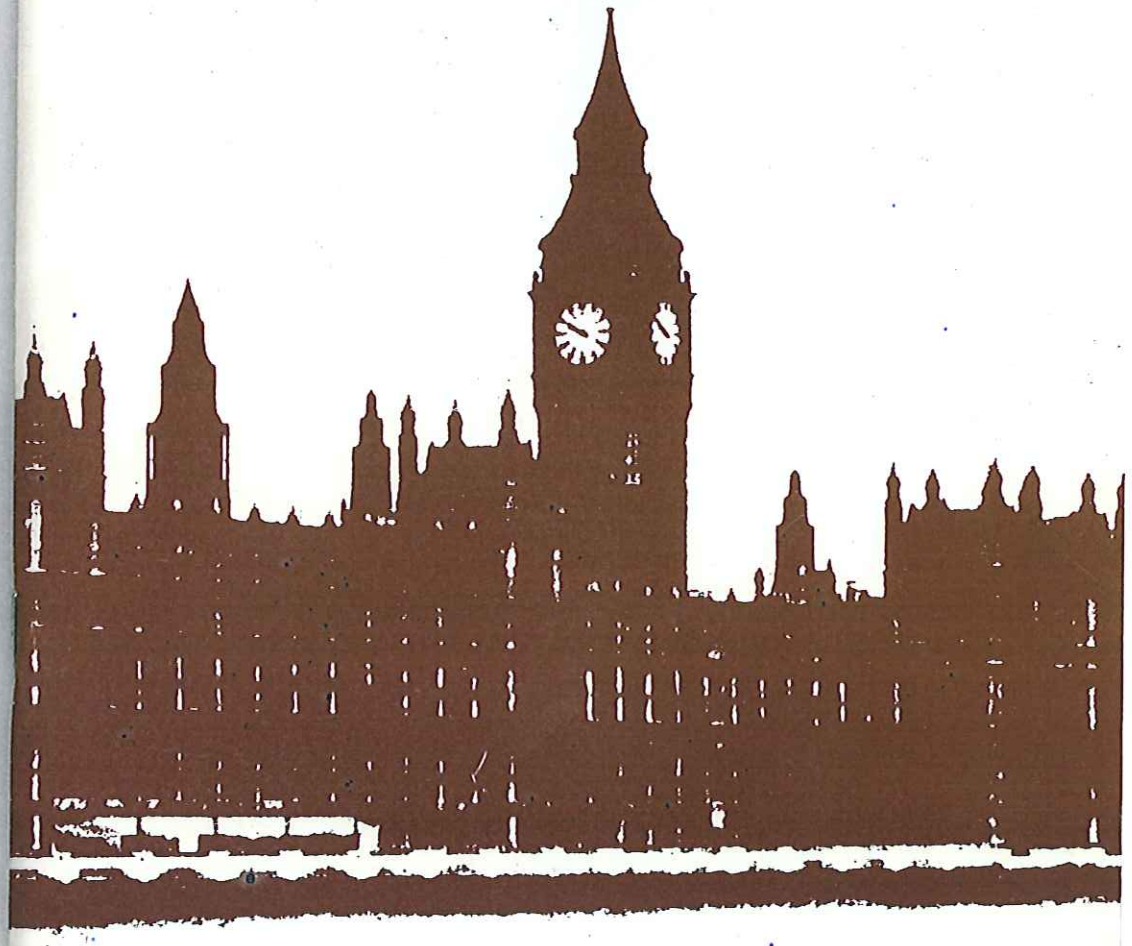
Policy Study No 111

Who Cares?

Children at Risk and Social Services

Andreas Gledhill & others



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CENTRE FOR POLICY STUDIES
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Contents

1
Child Abuse: why children suffer

The need for a reassessment

Child abuse has become a major political issue over the last fifteen years in Britain. Considerable controversy has been generated both by the debate on the true extent of the problem and by discussion of what the State can or should do about it.

Within the last few years there has on several occasions been widespread public agreement that our mechanisms for dealing with child abuse are failing us. On one hand, child care professionals trying to protect children are seen as having intruded into families on insufficient evidence and in a style that led during the Cleveland crisis to the charge that a full-scale assault on family life was being conducted by the representatives of the State. On the other hand, children still die of abuse, often under the noses of social workers. Jasmine Beckford, for instance, was killed by her stepfather whilst actually in care with Brent Borough Council.

If our child protection professionals are to retain the confidence of those who pay for their services, there must be a radical reappraisal of the way in which the State deals with child abuse.

The nature and the scope of the problem

'Child abuse' is a broad term used to cover a range of adult conduct towards children which is harmful to their well-being and development. It is usually subdivided for convenience into four principle types of abuse:

- non-accidental injury (NAI) – the deliberate physical injury of a child;
- child sexual abuse (CSA) – the involvement of dependent, developmentally immature children and adolescents in sexual activities which they do not properly comprehend and to which they are incapable of giving informed consent;
- emotional abuse – the persistent or severe emotional rejection or ill-treatment of a child;

- neglect – the persistent or severe neglect of a child (eg by exposure to danger) resulting in serious impairment of the child's health or development.

In addition to these broad categories of abuse, child protection agencies often also intervene to protect children suffering from severe non-organic failure to thrive – where the child fails to grow or develop at a normal rate although medical and social assessments have not revealed evidence of any of the above types of abuse.

There is no consensus about the level of abuse prevalent in Britain. Disagreements over terminology and the use of unrepresentative test samples have led to wildly different estimates of its prevalence.

For instance, estimates of the level of incestuous child sexual abuse have varied between one child in a million, through an estimate of one child in ten thousand, up to a claim that incestuous CSA occurs in one family in ten[1]. During the Cleveland crisis, MORI produced a research survey which was interpreted by some to mean that one person in ten was sexually abused in childhood.

The extreme estimates at both ends of the scale can be discounted with reasonable confidence.

Experience indicates, sadly, that the one in a million figure is inaccurate. Meanwhile the figure of one in ten attributed to the MORI survey (disavowed in fact by Bob Worcester of MORI in a letter to *The Times* on 2 December 1987) relied on the inclusion of a large range of very minor experiences within the definition of 'sexual abuse' which would not ordinarily be deemed to merit serious concern. In fact only seven out of the one thousand respondents to MORI's survey actually said they had been interfered with.

Yet even when we have discarded the extremes we are left with a very broad band of possibilities – with no firm evidence upon which to estimate reliably where the truth lies. As the DHSS's *Health Trends* (1988) comments, 'the information that is available is open to criticism that it is invalid and/or not

(1) Respectively, *Incest Behaviour*, S.R Weinberg, 1953; *Child Sexual Abuse: analysis of a Family Therapy Approach*, Jerome Kroth, 1979; and *Sexual Assault on Children and Adolescents*, A.W. Burgess *et al*, 1979.

representative of the general population. This makes estimating a figure for the national prevalence of CSA [or any other form of abuse] an unsatisfactory exercise'[2].

Yet if we have no clear idea of the *prevalence* of sexual or other forms of abuse, we do have a good picture of the *reported incidence* of abuse. The NSPCC recently published an analysis of the data which it has collected about children placed on the 'at risk' registers which the Society keeps on behalf of many local Area Child Protection Committees. This data has been collected since 1977 and constitutes the largest continuous study of child abuse conducted in this country. The most recent statistics cover the period between 1983 and 1987:

Table 1
Number of registered children by year and by reason for registration

	1983 %	*1984 %*	*1985 %*	*1986 %*	*1987 %*
NAI	675 (60)	707 (63)	909 (57)	938 (44)	808 (35)
CSA	51 (5)	98 (9)	223 (14)	535 (25)	640 (28)
Neglect	62 (6)	50 (4)	73 (5)	124 (6)	126 (6)
Failure to thrive	15 (1)	34 (3)	28 (2)	46 (2)	50 (2)
Emotional abuse	31 (3)	18 (2)	22 (1)	41 (2)	34 (1)
Total abused	834 (75)	907 (81)	1255 (79)	1682 (78)	1658 (72)
'At risk' cases	278 (25)	209 (19)	355 (21)	461 (22)	647 (28)
Accidental injuries	3	1	1	1	1
Total registered	1115 (100)	1117 (100)	1591 (100)	2144 (100)	2307 (100)
Rate per '000 under 18	1.16	1.16	1.68	2.32	2.5
Rate per'000 under 17	1.05	1.06	1.55	2.18	2.36

The NSPCC's figures show a clear increase in the reported incidence of child abuse. The rate of new cases has more than doubled in the five year period. Recent government figures, moreover, estimate that the rate of children registered per thousand of the under 18 population rose sharply again in 1987-88 to 3.6. Most of the increase in the above table is attributable to the huge rise in number of CSA cases coming to light.

(2) *Health Trends 1988*, vol. 20 p.3.

(3) *Child Abuse Trends in England and Wales 1983-87*, Susan J. Creighton and Philip Noyes, NSPCC, July 1989.

These figures do not, of course, necessarily indicate a rise in the actual *prevalence* of sexual or other forms of abuse – only a rise in the *reported incidence*. They tell us the number of new cases reported annually, not the proportion of children who are abused at some point in their development. Nevertheless, they do make it abundantly clear that, whatever the reason for the rise in the number of cases coming to light, child abuse presents a growing problem for the agencies to which the Government entrusts the protection of children: principally, to the Social Services Departments of local authorities.

The roots of the problem

The far Left have seized upon and exploited explanations of the causes of child abuse for ulterior political purposes. Though different groups have arrived at their conclusions by different routes, they all agree that child abuse in its various forms is explicable only as the product of a flawed society, and that in order to deal with child abuse it is necessary first to effect fundamental social and economic changes.

Many on the traditional socialist Left claim that child abuse is a product of poverty and inequality and that it can be eradicated only by a drastic shift towards a more egalitarian and collectivist society. One American 'expert', for instance, tells us that 'child abuse is a terrible thing, but so is every other form of tyranny . . . child abuse is part of a much larger problem of exploitation of the weak by the strong'[4], while in Britain it has recently been claimed that a major cause of child abuse has been parents venting on their children 'their natural feelings of frustration' at evidence of economic inequality around them[5]. The most complete statement of this view has been Nigel Parton's *The Politics of Child Abuse*, which cautions its readers that 'in seeing abuse as being manifested and caused at the individual level we do not critically analyse the abuse that institutions, organisations and the wider society practise and legitimate'[6]. Mr Parton declares that it is useless and undesirable

(4) *Child Abuse: an Agenda for Action*, ed. George Gerbner, Catherine Ross and Edward Zigler, 1980, p.116-117.

(5) 'The Recognition of Child Abuse', Colin Stern in Peter Maher, ed., in *Child Abuse: The Educational Perspective*, 1987, p.41.

(6) *The Politics of Child Abuse*, Nigel Parton, 1985, p.152.

to examine individual culpability for child abuse – what are required rather are 'more wide-ranging forms of social reorganisation than has [sic] ever been put on the agenda'.

Militant feminists agree that child abuse is merely a symptom of a deeper social malaise, but claim that this malaise is not so much poverty as the male-dominated, 'patriarchal' society. Beatrix Campbell's book on the Cleveland crisis *Unofficial Secrets*, argues that the struggle for women's liberation is the same as the struggle against child abuse because 'perpetrators are typically male and abuse is an expression of a patriarchal sexual culture'[7]. She declares that child abuse and female subjugation alike are products of the male dominated family system, and predicts that the child deaths of recent times will prove a powerful weapon against the political supporters of the traditional family: '. . . child torture came to haunt Thatcherism during the 1980s. The ghosts of dead children – Jasmine Beckford, Tyra Henry and Kimberley Carlile, all destroyed by their fathers – smiled out from the newspapers . . . it all seemed to vindicate Thatcherism's scorn for the busy-body welfare state. But not quite: these children died within the family, the institution sanctified by Thatcherism. The state had sinned by omission, not commission – families were kept intact and children were killed'.

The explanations of the causes of child abuse offered by both these schools of thought owe more to a desire to deploy child abuse as a weapon in a wider ideological war than to any serious attempt to address the real issues involved. The evidence which has come to light in recent years lends no support to the idea that child abuse is a 'product' of poverty (still less of economic inequality), but rather indicates that if child abuse can be seen to have any single major social cause at all, then that cause, far from being the dominance of the traditional family unit, is in fact its gradual decline.

Research strongly supports the thesis that child abuse is to a high degree transmitted from one generation to another: those abused in childhood very often later abuse their own children. One study, for instance, found that 43 per cent of male child abusers within its sample had themselves been physically

(7) *Unofficial Secrets: Child Sexual Abuse – the Cleveland Case*, Beatrix Campbell, 1988, p.78.

abused as children, while 37 per cent admitted to having been sexually abused: both these figures are likely to be significant underestimates, as men often find it difficult to admit to having been victims of abuse[8]. Child abuse is a classic example of a 'cycle of deprivation' – socially deviant or ill-adapted behaviour being learnt in the formative years by children from their parents and environment. Children learn parenthood from their own parents: if these are inadequate, the children in turn become inadequate parents. Abuse begets abuse.

Unfortunately this cycle of deprivation is not static. It is dynamic, in the sense that it is easier to fall into it than it is to break out of it. If it is true that a high proportion of people abused in childhood later themselves abuse their children, it is also clear that there are many abusers who were not themselves abused as children – but who have still entered into the cycle of abuse. This circumstance gives grounds for suspicion that child abuse may well be a growing problem – not only in its reported incidence, but in its actual prevalence.

How are people drawn into the cycle of abuse? Evidence suggests that there are two broad social currents tending to increase its extent.

The increasing introduction of men other than the natural father into frequent or daily contact at home with dependent and immature children has been one such current. The NSPCC survey already quoted strongly corroborates the correlation between child abuse and the 'reconstituted' family (families in which one or other of the parent figures is not the natural parent of their spouse's children):

Table 2

Parental situation by type of abuse (1983-1987) combined

	NAI %	*CSA %*	*Neglect %*	*Failure to thrive %*	*Emotional abuse %*
2NP	1640 (41)	566 (37)	157 (36)	95 (55)	53 (36)
NMA	847 (21)	308 (20)	198 (45)	55 (32)	31 (21)
NMFS	1139 (28)	511 (33)	59 (14)	17 (10)	42 (29)
NFA	152 (4)	72 (5)	8 (2)	2 (1)	5 (3)
NFMS	166 (4)	38 (2)	4 (1)	2 (1)	11 (7)
Other	67 (2)	45 (3)	6 (1)	2 (1)	4 (3)
No confirmation	26	5	3		
Total	4037 (100)	1545 (100)	435 (100)	173 (100)	146 (100)

(8) *The Sexual Victimisation of Children*, Mary de Young, 1982, p.11.

Key:

2NP	Two natural parents
NMA	Natural mother alone
NM & FS	Natural mother and father substitute
NFA	Natural father alone
NF & MS	Natural father and mother substitute[9]

As the Table makes clear, children from backgrounds of family disruption comprise a majority of the victims of all three major forms of active abuse, and a majority of the victims of neglect. Particularly alarming is the greatly disproportionate number of 'father substitutes' involved in in the abuse of children – especially with regard to sexual abuse (the chief area in which reported incidence has risen over recent years). It must be remembered that in the Table above, the abuser in the maternal one-parent family (NMA) is almost always the man with whom the mother has formed a relationship short of cohabitation, rather than the mother herself. Consequently, almost half of all the reported incidence of the three main categories of abuse are committed by the new partners of divorced or separated mothers.

The reason for this huge difference between the probability of a natural father being an abuser and a mother's new partner abusing her children, is twofold. First, the incest taboo in English-speaking countries does not extend to sexual relations between the mother's new partner and her children by her previous partners. Second, men who develop a relationship with a woman who already has children are unlikely to feel that their partners' children are also 'their' children in the same way as a natural father would: a major obstacle to abuse is thus not present.

The second major new source of child abuse is parents who, though not themselves victims of abuse, were victims of an unstable home in their childhood. It is noteworthy that a number of research studies have found that a disproportionate number of abusing parents come from broken homes. One study found that 59 per cent of sexually abusive fathers within its sample had had divorced parents[10] – even though these men would have grown up at a time when divorce rates were far lower than now. It is also of significance that, as the NSPCC

(9) Creighton and Noyes, op. cit., p.10.

(10) Young, op.cit., p.10.

research has shown, the great majority of abusing fathers have criminal records (70 per cent and 64 per cent respectively in the cases of physically and sexually abusing fathers or father substitutes[11]). Though obviously not all those who habitually break the law do so simply as a result of an inadequate upbringing, there is a strong correlation between lack of good parental discipline in the formative years and a later propensity to criminal conduct[12]. This is particularly so with regard to violent crime – and the NSPCC's data, indeed, indicates a greatly disproportionate number of violent criminals amongst all types of abusing parent[13]. Thus, homes which fail to provide children with socially acceptable standards of conduct – either because of the absence of a parent, or because one or both of their parents do not adhere to those standards – often produce children who later become abusing parents: and the cycle has begun.

Given that the above are two major contributors to the growth, or at least the perpetuation of the cycle of child abuse, it is clear that the rise in divorce rates and the decline in the traditional family unit since the late '60s has been a disaster for the well-being of children.

On the one hand, increased divorce has led to a sharp rise in the number of non blood-related adults who come into frequent or daily contact with children in their home life. In 1986 there were 106,573 divorces involving children – approximately 13,500 more than in 1976[14]. The number of one parent families rose from 570,000 in 1971 to over a million in 1986[15]. The number of children consequently exposed to the heightened dangers of abuse at the hands of, in particular, the new partners of their natural mothers (87 per cent of one parent families are headed by mothers[16]) has grown sharply and is still growing. This risk is present both in one parent and 'reconstituted' families.

(11) Creighton and Noyes op. cit., p.20.

(12) See 'Feminist Attempts to Sack Father: a case of Unfair Dismissal?', Patricia Morgan, in *Family Portraits*, eds. Digby Anderson and Graham Dawson, Social Affairs Unit, 1986.

(13) Creighton and Noyes op. cit., p.20.

(14) *CSO Annual Abstract of Statistics 1988*, p.26.

(15) *Population Trends*, no 55, Spring 1989.

(16) *The Myth of the Disappearing Nuclear Family*, Robert Chester in Anderson and Dawson, eds., op. cit., p.26.

On the other hand, increased divorce has left an ever growing number of children with so little experience of how a parent should behave that they may well eventually abuse their children. As Patricia Morgan has argued, even the best one parent families are unlikely to impart to a child the skills which a child learns when brought up by both natural parents[17]. In particular, this deficiency manifests itself in violent conduct – such as child abuse: 'any rise in the number of boys without close ties to males with socially acceptable standards of behaviour (eg fathers) ... is virtually guaranteed to generate a brutalised and violent masculine style. This is largely inseparable from the development of those violent sub-cultures where, in everything from football hooliganism to child abuse and wife battering, the most significant factor is the general ethos of aggression and counter-aggression'[18].

This pessimistic view of the effects on children's safety of the rise in marital breakdown since the '60s is consonant with a growing rejection of the optimistic 'liberal' attitude towards the effects of divorce on children. In the late '50s, Professor O R MacGregor (later a major contributor to the Finer Committee on the one parent family set up during the last Labour Government) assured his readers that 'the effects of divorce are frequently exaggerated', arguing that 'as some two thirds of all divorced persons marry again, the chances that a child of divorced parents may achieve emotional security in a new home are high'[19]. Today such confidence about the negligible damage done to children by divorce is difficult to sustain. It seems more than likely that marital breakdown has led to a rise in the prevalence of child abuse. Certainly the claim of militant feminists such as Beatrix Campbell that child abuse is somehow a product of the family system cannot hold. It is of some significance that of the three cases of fatal physical abuse which Beatrix Campbell cites – Jasmine Beckford, Kimberley Carlile and Tyra Henry (see p. 9) – two were killed by 'substitute' fathers and the parents of the third were unmarried and separated.

(17) 'For the Sake of the Children?', Patricia Morgan in *Full Circle? Bringing up Children in the Post-Permissive Society*, ed. Digby Anderson, Social Affairs Unit, 1988.

(18) Morgan in Anderson and Dawson eds, op. cit., pp.52-53.

(19) Ibid.

These cases do not point the finger of blame at the traditional nuclear family. Rather, they constitute a radical indictment of the permissive society that has done so much to undermine the family over the last twenty-five years.

The following chapters deal with ways in which the State should deal with child abuse when it occurs and is reported. It is better, however, to treat the causes, where possible, rather than the product. As the foregoing analysis makes clear, child abuse is largely a consequence of the decline of the traditional family. To be effective in stemming child abuse, we must end policies which encourage the one parent family, and design policies which bolster the traditional family. Let us hope that recent reports about government plans to consider compulsion of natural fathers to pay maintenance to the mothers of their children born out of marriage are accurate. Equally welcome would be a re-examination of local authorities' policies towards unmarried mothers on council housing waiting lists. The tide has turned against the permissive society – and the Conservative Party must now show its commitment to the family in legislative action, rather than merely indulging in Party Conference rhetoric.

2

Child abuse and social services

How we protect children

The procedure for child protection in England and Wales starts with the duty of 'any person who has knowledge or a suspicion that a child is being abused or is at risk . . . to refer their concern to one or more of the agencies with statutory duties and/or powers to investigate and intervene. These are the 'investigating agencies', i.e. the Social Services Department, the NSPCC and the police'[1]. In practice, the statutory investigating agencies themselves detect a majority of cases of suspected child abuse. Schools and education welfare officers, health visitors, community nurses, GPs and hospital consultants each account for small proportions of the remainder of suspected cases reported. Both the police on the one hand, and the Social Services and the NSPCC on the other, have a duty to inform and cooperate with each other throughout any investigation.

Once an initial, factual assessment of the case has been made, the Social Services Department (SSD) assumes the legal responsibilities of 'lead agency'. The law is clear that the statutory duty to protect children from abuse rests firmly with the SSD[2]. If the initial investigation of a case gives grounds for serious concern, the SSD is obliged to convene a case conference, at which all the agencies connected with the investigation of the child's circumstances and the taking of future action share information relevant to deciding whether the child should be placed on the local child protection register. If this course is followed, a member of the SSD will be appointed by the conference to be the case's 'key worker'. The key worker's task is to fulfil the statutory duty of the SSD to protect the child, and to act as co-ordinator between the different agencies involved in assessment and treatment. The key worker is thus responsible for managing the assessment of the child; for supervising the drawing up of a plan of action to meet the needs of the case (this can range from the compulsory reception of the child into

(1) *Working Together: a guide to arrangements for interagency co-operation for the protection of children from abuse*, DHSS and Welsh Office, HMSO 1988, p.21.

(2) Ibid, p.5.

local authority residential care, to the provision of various forms of support for the child and family in question); for ensuring the implementation of that plan; and for monitoring its effectiveness and appropriateness in practice[3].

This year marks the hundredth anniversary of the passing of the first law which made intentional parental cruelty a distinct criminal offence. Few people, if any, would say that this was not a positive step towards securing the well-being and happiness of children. Everyone can agree that the physical or sexual assault of a child is just as criminal when perpetrated by the child's natural or substitute parents as when perpetrated by anyone else. The British Monarch, as *parens patriae*, possesses ancient prerogative powers and duties to protect the persons and property of his subjects – in particular those such as children who are unable to help themselves. It seems only right that this power should be construed to include such neglect or abuse of a child as might seriously prejudice his happiness and normal development.

There has, however, for many years been an uneasy doubt as to how effective state action can be to prevent the abuse of children. The great Tory philanthropist, the Earl of Shaftesbury, took a pessimistic view of the possibility of successful state intervention to protect children from abuse: 'the evils', he declared, 'are enormous and indisputable, but they are of so private, internal and domestic a character as to be beyond the reach of legislation'.

Recently this sceptical view of governmental competence has been propounded from some unusual quarters. Though employees and partisans of the public sector are usually to be found in the camp of the optimists in the debate on the limits of state competence, this has not been so with reference to child abuse. With the public's confidence in the 'professionals' badly shaken in the light of first, the failure to intervene in the Beckford, Carlile, Henry and other cases, and then the excessive intervention in the Cleveland affair, social workers have raised their voices to protest that too much is expected of them, and that it is impossible always to protect children against determined and persistent abuse.

(3) Ibid, part 5, *passim*.

No mechanism for such protection will ever be perfect. There will always be some risk of children being removed from homes by social services where no abuse has in fact taken place. Sadly there will also be children allowed by social workers to remain in homes where they *are* suffering abuse. But this is not to say that many mistakes made in the recent past by those charged with protecting children were not avoidable. The death of Jasmine Beckford was preventable. The excesses of Cleveland were not inevitable. Specious arguments about governmental overload and fallibility are being used by social workers as a shield to ward off those who should be rigorously scrutinising the soundness and competence of the 'lead agency' entrusted with child protection. The impending crisis referred to at the beginning of the previous chapter demands that we look closely at our mechanisms for coping with child abuse before accepting easy explanations.

The problem facing us is two-fold: our procedures for protecting children from abuse do both too little and too much. On the one hand children are being abused under the noses of social workers; on the other, parents increasingly complain that children who have not been abused are being removed from home by social workers. It is also clear that the way in which social workers treat both children and parents is often high handed. The public no longer believes that the State can protect children from abuse without at the same time inflicting damage to normal family life. Similar concerns have already surfaced in the United States, where there has been a sharp increase in intervention in recent years with little commensurate increase in the number of cases of verified abuse successfully dealt with – and a substantial increase in the number of innocent parents subjected to investigation[4]. At the same time it seems that as many as a quarter of child abuse fatalities in the USA occurred even though the situation had already been brought to the attention of a child protection agency[5].

Both the problems of under- and over-intervention spring from a deep-seated flaw in the organisation of the principal

(4) *Doing Something about Child Abuse: the Need to Narrow the Grounds for State Intervention*, Douglas J. Besharov, Harvard Journal of Law & Public Policy, Vol 8, No 3, Summer 1985, p.549.

(5) Ibid, p. 551.

agency upon which we rely – the local authority Social Services Department. SSDs are neither properly accountable to the public which finances them nor properly responsive to the needs and requirements of those whom they try to serve and help. And the restraints intended to prevent them abusing the considerable powers vested in them are inadequate. They enjoy virtual impunity in deciding what is necessary and desirable, generally without reference to ratepayers, clients or anyone else. The personal social services have evolved since 1970 with regard mainly to the wishes of those providing the services rather then of those who use them and pay for them. Consequently, SSDs fail to address need where it exists whilst lavishing time on some services of debatable value.

The tyranny of the compassionate mind

It is a sad reflection on the alertness of successive Governments since 1970 that it needed the Cleveland crisis to bring about even limited action to protect those who are caught up in the child protection machinery from high-handed and arbitrary decisions. As Professor Michael Freeman has observed of the events in Cleveland, 'to observers of the child care scene there is a sense of *deja vu*'[6]. Commentators have long voiced concern that the rights of parents and children in the care system are systematically overridden by the 'professionals'. For instance, concern over the lack of redress open to parents wrongly accused of abusing children was expressed in a BBC television programme a year before the Cleveland affair. The systematic abuse by social workers over many years of the Place of Safety Order (PSO), under which children may be detained by the SSD in a place of safety with the approval of a magistrate, has been documented by a number of research studies. In the early '80s the Family Rights Group commented that 'by and large, the enormous power that social workers hold over their clients' lives goes unfettered and unchallenged'.[7] In short, there is today, and has been ever since the Local Authority Social Services Act 1970 established free-standing SSDs, a gross imbalance in power

(6) *Responses to Cleveland: Improving Services for Child Sexual Abuse*, Peter Riches ed., National Children's Bureau, 1989, p.13.

(7) *Accountability in Child Care – Which way forward?* Family Rights Group, 1982, p.24.

between professionals and parents.

This imbalance has led to an alarming and well documented trend towards the greater use of SSDs' coercive powers against its clients, and to the growth of an increasingly high-handed, interventionist ideology in SSDs. Research commissioned by the DHSS in 1986 concluded that there had been a 'steady increase in the use of compulsory powers, at the expense of voluntary child-care arrangements'[8]. Whereas the Children and Young Persons Act 1969 originally envisaged that the majority of children in care would be received voluntarily as an aid to parents finding it difficult to cope, by the early '80s it was quite clear to many 'that local authority care is no longer being seen, or offered, as a supportive service to those families who have nowhere else to turn to for the help they need in caring for their children'[9]. The highly publicised death of Maria Colwell at the hands of her stepfather in 1973 after the failure of social services to intervene accelerated this trend away from voluntarism. In 1962, only 47 per cent of children in care had been received from their homes as a result of local authority resolutions or court orders: 'in 1973 the proportion had risen to 61 per cent – a rise not fully accounted for by the addition of committed offenders under the Children and Young Persons Act 1969. In 1986, the proportion had reached 74 per cent'[10]. The Barclay Report published by the National Institute for Social Work in 1982 made it clear how far the balance had tilted by the early '80s in favour of intervention and compulsion in SSDs' dealings with children: 'there should be no presupposition that care provided in a client's own home or in a foster home, is necessarily better than, or preferable to, care in a residential home'[11].

Two of the most vivid indicators of the growth of this autocratic attitude in the practice of child care are the growth in the use of Place of Safety Orders, and the increased use made of local authorities' parental rights resolutions.

The PSO was intended in the 1969 legislation as the means

(8) *Who Needs Care? Social Work Decisions about Children*, Jean Packman, 1986, p.15.

(9) Family Rights Group, op. cit., p.19.

(10) Packman, op. cit., p.5.

(11) *Social Workers: Their Role and Tasks*, Peter Barclay, National Institute for Social Work, 1982.

by which SSDs would protect children in situations where they were in serious and imminent danger. The number of these orders invoked has risen steadily throughout the '70s and '80s. While there may well have been a rise in the prevalence of child abuse over this period, research shows clearly that the hugely increased use of PSOs has owed more to social workers using them routinely as a first step in investigating abuse, rather than only in emergency situations[12]. The number of such orders in England in force on 31 March rose from 204 in 1972 to 759 in 1976[13]. In 1984-85 the rate per thousand of the population under eighteen who were removed by an SSD to a place of safety was 0.47: by 1987-88 it had risen to 0.71[14].

Under Section Three of the Child Care Act 1980, local authorities can assume full parental rights over a child already in voluntary care without needing to go to court – thus in effect unilaterally turning a case of voluntary care into one of compulsory care. Table 3 below sets out the figures for the number of such parental rights' resolutions 1963-1980.

Table 3

Children subject to local authority parental rights' resolutions 1963-1980[15]

Year	*Number of resolutions (000s)*	*Resolutions as a % all children in voluntary care*
1963	9.5	22
1966	9.6	21
1969	11.2	24
1972	12.2	25
1973	12.4	25
1974	12.6	25
1975	13.2	26
1976	14.5	30
1977	16.3	34
1978	17.7	38
1979	18.4	40
1980	18.4	41

(12) Packman, op. cit., p.201.

(13) Parton, op. cit., p.123.

(14) *Children Removed to a Place of Safety Year Ending 31 March 1988 England*, Department of Health.

(15) *Against Natural Justice*, One Parent Families, July 1982, p.3.

Coupled to this great increase in social services' use of compulsory powers has been an unwillingness in many parts of the country to permit the intervention or participation in the decision making process of any group outside the SSD itself. Report after report has urged on social workers the importance of cooperating fully with the police in the wake of police complaints that social workers have attempted to exclude them from decision making in cases of abuse. DHSS research in 1984 found that children and parents were permitted to participate in statutory reviews on children in care only to a minimal degree[16]. Doubtless in both these fields there has been some improvement since the mid '70s as a result of the pressure of family rights activists and the police. But change has come slowly and has had to be prised out of SSDs; in many areas it has been insignificant. Earlier this year, the inquiry into the death of Doreen Aston found that Southwark SSD had excluded the police from the case conference on the child even though 'their attendance was important in view of the possibility of executing a place of safety order'[17]. In Cleveland one of the major factors precipitating the crisis was the SSD's deliberate policy of excluding the police surgeons, and their support of Dr Higgs's and Dr Wyatt's refusal to give the police properly written statements recording their diagnoses. The most recent report by the Social Services Inspectorate into the workings of a major inner-city SSD concluded earlier this year that 'the level of parental involvement in the case conferences examined was unacceptably low'.[18]

The judiciary, moreover, has sadly failed to provide a check to the arbitrary exercise of power by social services. The legal system made it clear some time ago that it has abdicated its responsibilities in this field and left SSDs with almost absolute discretion. That great champion of rights and opponent of arbitrary power, Lord Scarman, ruled in the Lewisham case in 1979 that this was 'the world of social administration, not a legal

(16) *Decision Making in Statutory Reviews on Children in Care*, Ruth Sinclair, 1984, p.159.

(17) *The Doreen Aston Report*, Area Review Committee, Lambeth, Lewisham and Southwark London Boroughs, July 1989.

(18) *Inspection of Child Protection Services, London Borough of Southwark*, Social Services Inspectorate London Region, Dept of Health, March 1989.

battlefield': it was concerned 'to provide for social casework to relieve a child's distress and danger: it is not concerned to vindicate rights or to set scene for litigation'.[19]

Failing children

The Local Authorities Social Services Act 1970 implemented the main recommendations of the report of the Seebohm Committee published in 1968. Seebohm had proposed that the functions hitherto performed by several distinct bodies – child protection, care for the elderly, care for the mentally and physically handicapped, residential care facilities – should all be brought under the wing of a new unitary agency, the local authority Social Services Department. In the process a new profession would be created – the 'generic' social worker, who would be trained and equipped to deal with any of the problems referred to the SSD. Specialists were to be superseded by generalists with the aim of providing for all the special needs of a family with one social worker.

The Seebohm Report's recommendations were vitiated by a number of grave weaknesses – weaknesses which were incorporated into the new SSDs by the 1970 Act.

First, Seebohm at no point made any attempt to ascertain the opinions of the consumers of the services they were reforming, either about the status quo or the options for reform.

Second, the Report made no rigorous effort to define what was meant by many of its principal terms. Nowhere was 'a community based and family oriented service' defined[20]. Nowhere did Seebohm clarify what were the factors common to the services which were to be incorporated into the new SSDs – the factors which supposedly justified the creation of a new profession.

Third, the Report failed to explain why it believed that the quality of service would in fact be improved by creating unitary SSDs – a surprising gap in the Report's argument given that a number of submissions to the committee vigorously maintained that if there had been any improvement over the years, then this was attributable solely to the expertise accumulated in the respective autonomous agencies.

(19) Family Rights Group, op. cit., p.26.

(20) *Can Social Work Survive?*, Colin Brewer and June Lait, 1980, p.30.

These oversights are perhaps less remarkable if one accepts, as several commentators have suggested, that the Seebohm Report's authors were determined *ab initio* to establish social workers in free-standing for reasons that owed more to producers' desire for prestige, status and power than to consumers' desire for a high quality service – or to society's requirements for the protection of the elderly, the disabled and children. Either way, Seebohm's failure clearly to define the objectives of SSDs and the nature of social work has led to almost twenty years of speculation by social workers themselves in an effort to answer these basic questions.

The Birch Report on manpower and training in the social services in 1976 was one of the first official documents to testify to the extent of confusion rife over the objectives and role of SSDs. Birch confirmed that the Seebohm reorganisation had done nothing to clarify matters: 'bringing under the control of one organisation such a diversity of responsibility and provision has perhaps made it even more difficult to state clearly the primary tasks of the personal social services'[21]. By the end of the '70s pressure for some form of government inquiry into social work had become intense. In 1980 Dr Colin Brewer and June Lait made a powerful plea in their book, *Can Social Work Survive?*, for an independent inquiry into the goals and effectiveness of social work, pointing out the extent to which SSD policy had developed to meet the needs of the producers rather than those of the consumers and the requirements of society. The authors were at pains to stress that 'it would be a mistake if any inquiry were dominated by representatives of the [social work]) profession'.

In October 1980 the then Secretary of State for Social Services duly set an inquiry in motion to establish the answers to the questions Seebohm had failed to address and which subsequent practice had failed to resolve. He immediately rendered the exercise futile, however, by delegating the selection of the inquiry team to the National Institute for Social Work. The eighteen strong body included only three members who were not either social workers or social work academics. When the inquiry produced its findings – the Barclay Report – it

(21) Ibid, p.35.

unsurprisingly said almost nothing about ways in which SSDs could be rendered more accountable to those receiving services, those paying for services, or to the wider society which entrusted them with the task of protecting the helpless. It is telling that Chapter 12 of the Report (which claims to be about 'Protecting Clients' Rights', and starts by asking 'how clients' rights may be protected from bad social work practice' (paragraph 12.1)), almost immediately launches into a discussion of one of the issues most dear to social work's representative bodies – whether or not social work can be classified along with law and medicine as a full profession.

For all its outpourings, the Barclay Report failed to resolve any of the major issues which it was meant to address. The following attempt to define social work is indicative of the calibre of much of its thought: 'the second activity which social workers are needed to provide is that of face-to-face communication between clients and social workers'[22]. It utterly failed to address the question of whether or not SSDs provided services for which there was genuine need with acceptable effectiveness. Indeed the Barclay Report's desperate attempt to evade this question is one of its most notable features. The Report maintained that, in the first place, it was inappropriate in many fields of social work to talk of 'effectiveness' at all[23]: that, in the second place, in those areas where the use of the term 'effectiveness' seemed 'appropriate' to the members of the working party, 'effectiveness' was in any case impossible to quantify because there was no agreed criterion by which to judge it. It is most disturbing that SSDs, on the Report's own admission, should thus have for years been expending vast quantities of energy and resources without any clear idea of what they were trying to achieve.

The pervading uncertainty about the effectiveness and aims of social work has led in the last few years to a process of *de facto* abandonment of the Seebohm ideal of the generalist social worker. Specialism is back in vogue again. The Mental Health Act 1983 re-established a separate category of 'approved' social workers who alone are assigned to deal with mental illness. It seems that the Government has also decided that a

(22) Barclay, op. cit., p33.

(23) Ibid, pp.170-76.

recreated group of social workers specialising in child care might also be an improvement: the DHSS's most recent manual on child abuse procedure hints at this in its recommendation that a separate worker be allocated in cases of abuse to the parents and to the child. Yet this path must not be followed in the belief that it is enough simply to reverse Seebohm and replace generalist social workers with specialists either in separate agencies or within the existing structure of SSDs. Increased specialism, unless tempered by checks and increased accountability, will serve neither children nor the general public well: it will open the door to empire building and create a group of professionals with a vested interest in exaggerating the prevalence of child abuse in a bid to attract resources from government. It is significant that the first local authority to appoint to the staff of its SSD an adviser solely concerned with child abuse was Cleveland: Mrs Sue Richardson's partisan approach to her role was a major factor behind the crisis which developed.

The debate over the relative merits of specialism and generalism is not the priority of the moment. The chief question which needs to be addressed is the 'producer domination' of the personal social services. Only if this problem is dealt with will we restore confidence in our machinery for protecting children.

Producer-dominated SSDs are failing both children and the public. On the one hand, a lack of accountability has led to overall policy and training developing in ways which suit the convenience and aspirations of social workers rather than help to protect children. As Chapter 4 will show, neglect by social workers and those who train them of the statutory ingredient of social work has been disastrous. This has been a major factor in many of the recent cases of fatal child abuse (see p. 38). On the other hand, lack of legal checks and proper scrutiny of the effectiveness of social work decision-making has led to the disaster of social workers having great discretion without any capacity to use it wisely. The consequences have been first, ill-judged and unnecessary intervention, based on inadequate evidence: and, second, a tendency for social workers to assume a mantle of omnipotence once a child has been removed from its parents – even in advance of civil (let alone criminal) adjudication.

The roots of both these problems – both the 'too little' and the 'too much' – are largely remediable by a strategy designed to rein in SSDs and make them accountable to their clients and society at large. This issue is addressed in the following chapters, which argue that

i) a clear and enforceable framework of clients' rights and liberties is required to provide speedier redress for the falsely accused, to improve the quality of social services decision-making, and to stop social workers from ignoring the views and rights of both children and parents.

ii) the Government should acknowledge that the body at present entrusted with training social workers has failed; and that the profession's methods of training and selection should be controlled more rigorously by the Department of Health.

3
Righting the balance

Clients' rights

The heavy-handed approach of SSDs in dealing with their clients stands in need of redress. As best exemplified in Cleveland, it is intolerable that child care 'professionals' should be able to deny basic rights both to the children they seek to protect and to their parents on the grounds that whatever they decide to do is in 'the best interests of the child'. It is clear that the powers of social workers do need to be circumscribed in some way.

After the Cleveland affair there was widespread acceptance of the need to curb social workers' arrogation of powers to themselves. In the wake of the Butler-Sloss report, the Government issued several documents to serve as guides for social workers and doctors in the diagnosis and management of child abuse, which stressed that over-intervention could often have effects quite as ill as failure to intervene. The Government has further attempted in the Children Act (1989) to provide parents and children with some safeguards against social workers' abuses of the powers vested in them. But how far will its proposals redress the imbalance between SSDs and their clients?

There are two main ways in which the Government could have sought to protect parents and children. It could have attempted to impose restraints on SSDs from above by laying down codes of practice in Department of Health guidelines, and ensuring that they were adhered to by means of the Social Services Inspectorate. Or they could have given SSDs' clients specific rights empowering them to challenge the way in which they are treated and the conduct of social workers. The Government has broadly chosen to follow the first path, perhaps due to instinctive Conservative unease about using the language of rights. Such unease is misplaced: in fact, a commitment to defining and maintaining the rights of parents and children is an essential precondition of a truly equitable system of child protection.

There are a number of arguments in support of giving rights, and against the belief that parents and children can be

protected solely by restraints imposed from above on SSDs.

First, there must be a strong *a priori* presumption in favour of a 'consumer-led' solution. However effective the monitoring of the Social Services Inspectorate, differences in practice would inevitably emerge. No system which relies solely on central regulation can respond as rapidly or sensitively as one which leaves more up to the initiative of individual clients. Standards of service would be better safeguarded if the client were given the role of watchdog.

Second, it is unacceptable that fundamental questions of liberty and family life should be resolved by the unchallenged arbitrament of SSDs themselves. The argument in favour of stronger central controls derives from Lord Scarman's noxious principle that questions of the protection of children belong to 'the world of social administration' and are unsuitable as 'a legal battlefield' (see p. 21).

Third, social workers themselves have often complained with some justice that their present role carries an oppressive burden of responsibility. To give clients enforceable rights against the machinery of child care would ease that burden. Although SSDs and individual workers will always be called upon to perform a difficult balancing act between the protection of the child and the equitable treatment of the other parties involved, it is not reasonable that they should bear all the blame when that balance goes askew. If clients were given clear and enforceable rights guaranteeing certain standards of treatment, the responsibility for ensuring that such standards were maintained would fall to the individuals involved in conjunction with the courts or the complaints procedure.

The concept of enforceable clients' rights would not only lead to a more equitable system for protecting children; it should also improve the effectiveness with which SSDs deal with cases of child abuse. There are fundamental reasons for giving SSDs' clients a more active role – for encouraging them both to participate in and challenge social services' decisions.

Those with responsibility for the management of a suspected case of abuse would need to think more clearly about the justifications for their assessments (and about the course of action they should employ) if they were subject to the scrutiny

and challenge of those affected by their decisions. Parental participation in statutory reviews on children in care, for example, would force social workers to state such justifications and defend their methods – and indeed examine alternative strategies. Research commissioned by the DHSS has suggested that the quality of decision making by the social services on children in care is low, and that parental participation could help to improve it.[1]

Moreover, a system which left it mainly to the client to enforce standards of decision-making and treatment, rather then expecting the social worker to be both judge and executioner in his own case would free caseworkers to focus upon their paramount task – the protection of the child. A framework of clients' rights in which disputes were settled by a party independent of the parents and the SSD would result in a service better able to protect those children genuinely at risk.

Clients' rights offer us the best prospect for escaping from the consequences of the 'producer capture' discussed in the previous chapter. They would provide parents and children with safeguards against arbitrary and unnecessary compulsion by the child care professionals. They would force a higher standard of decision-making and practice in social services' attempts to protect children. They would thereby address the major defects of social services in England and Wales, without in any way making it easier for abusing parents to escape justice.

After Cleveland

Much of the Government's thinking since the Cleveland crisis has been based on the conclusions and analysis contained in the report by Lord Chief Justice Butler-Sloss on the affair. This is unfortunate since the Butler-Sloss Report failed in important respects to get to the heart of what went wrong in Cleveland.

The Report attempts to explain the acknowledged over-reaction in Cleveland as an over-compensation for criticism made of SSDs elsewhere – that their failure to intervene had cost children's lives. Thus in its concluding 'Comments on Social Work Practice' the Report states that 'the deaths of Jasmine

(1) Ruth Sinclair op.cit., pp.156-57.

Beckford, Tyra Henry and Kimberley Carlile led to a public criticism of social workers for failing to act promptly and positively to secure the protection of children. This had the effect in Cleveland of creating a revived sense of determination to ensure that if serious risks to children were seen, effective steps would be taken to intervene'.[2] Elsewhere, the Report comments that 'the publication of the Jasmine Beckford report and the publicity which surrounded it, prompted the Social Services Department further to review its child care strategy . . . this review was led by the Child Abuse Consultant, Mrs Richardson . . . team leaders and social workers who worked with the most difficult child care cases had received some preliminary training in child sexual abuse by 1987'.[3]

Yet remarkably, the report fails to ask why Mrs Richardson and Cleveland SSD chose to respond to the death of Jasmine Beckford – a case of fatal *non-accidental injury* – with a training programme on *child sexual abuse*. No equivalent training programme or reorganisation in the way Cleveland dealt with NAI at this period is mentioned in the report's section on physical abuse. The report's acceptance of this lame theory of overcompensation meant that it recognised *neither* the extent to which social services over-intervention in Cleveland was simply part of a far larger trend towards the greater use of autocratic compulsion in dealing with child abuse, *nor* the extent to which Cleveland's decision to put such abuse at the top of the agenda may have been guided by considerations other than those arising from the Beckford report – which did not in fact even mention sexual abuse.

The Butler-Sloss Report's failure to formulate clearly the issues which it should have addressed led to the acceptance of a superficial and incorrect analysis of the origins of the problems in Cleveland. This failure in turn prevented the Report from drawing useful conclusions about the relation between the client and the SSD, and about the extent to which priorities in SSDs usually reflect the views of the staff rather than the needs of clients. Had Butler-Sloss analysed correctly the problem in

(2) *Report of the Inquiry into Child Abuse in Cleveland 1987*, (the Butler-Sloss Report), June 1988, HMSO cmnd 412, p.240.

(3) Ibid, p.56.

Cleveland, the Government's subsequent approach to reform might have been different; a more full-blooded endorsement of clients' rights might have followed.

The DHSS's most recent handbook on dealing with child abuse, *Working Together*, still envisages improving the social services' treatment of its clients through exhortations by central government to SSDs to be more temperate. There is no mention in the document of any concept of clients' rights. Thus in the section on the 'involvement of children and parents', the document advises its readers that 'openness and honesty and the ability of professional staff to use authority appropriately are an essential basis on which to build a foundation of understanding between parents and professionals'[4]. At no point does *Working Together* inform its reader what the 'appropriate' and 'inappropriate' uses of authority might be. The individual SSDs and social workers are presumably to work this out for themselves – with the consequences we have discussed above.

The Children Act marks a shift in the Government's thinking, however, and makes several welcome advances in the direction of clients' rights. In particular:

(i) the Act abolishes the unfair procedure whereby, under Section Three of the Child Care Act 1980, local authorities could assume full parental rights over a child already in voluntary care simply by passing a parental rights resolution (see p. 20). This procedure has for years been the practical expression of the ideology inherent in Lord Scarman's dictum that the world of 'social administration' should not be susceptible to legal challenge. The abolition of Section Three resolutions implies a welcome acknowledgement by the Government that the SSD's perception of 'the best interests of the child' must be seen not as final and objective, but be clearly understood as a partial assessment.

(ii) the Act's introduction of a right of parental access to children in care (in all but exceptional circumstances) is welcome. Up to now the parents had to seek legal redress if access to a child was restricted by an SSD: now the SSD will have to go to court if it wishes to limit access – and

(4) *Working Together*, p.29.

even then can do so only for a period of seven days. The switch from a legal presumption of the right lying with the SSD to a legal presumption of the right remaining with the parents is of great importance.

(iii) the Act's provisions for the automatic appointment of a guardian *ad litem* to represent the interests of the child (separately from the parents) in court proceedings are also welcome. Some of the worst failures of the system have occurred when the interests of the child have been assimilated either to the interests of the parents, or to the views of the local authority. Independent representation of the child is a major step forward. It could help to ensure both that justice is done, and that the child actually receives the services he needs rather than those which others assume he needs.

These will all prove useful and popular measures. They also constitute a major step forward on the path to clients' rights. The thinking that inspired the Social Services Select Committee to brand the idea of parents' and children's rights as 'divisive' is obsolete. The Government must now consolidate the children Act by a full-blooded endorsement of the concept of clients' rights. This could take practical effect via a number of further reforms.

(i) The first concerns the administration of the panel of guardians *ad litem*. As things stand the guardians will be appointed from a panel approved by the local authority in question. Although it is stipulated that social workers or others who have been involved in arrangements for care or adoption of the child cannot also be the child's guardian, this safeguard is inadequate. A full recognition of the rights of children as clients would entail recognition of the likelihood that the guardian *ad litem*, if he is to act effectively to defend the interests of the child, may frequently find himself at loggerheads with the SSD. It is unreasonable to expect a social worker to perform an adversarial function in opposition to his colleagues one day, and then to return to harmonious working relations with them the next. Moreover, as the children's rights lobbyists have argued,

(5) *Hansard* 27 April 1989, col.116.

'there is concern that the local authority involved in care proceedings may, however inadvertently, tend to set the terms within which the guardians *ad litem* can operate . . . full professional independence is difficult to achieve in such circumstances'.[6] If the proposals in the Children Bill concerning guardians *ad litem* are to realise their potential, the Government must rigorously apply the principles which underlie them to the manner in which they operate. Guardians *ad litem* are needed because neither the parents nor the SSD in a court case can be regarded as impartial with regard to the child: therefore that guardian's selection should not be left to the discretion of either of the partial parties. The guardian *ad litem* panel should not be administered by the same local authority as the guardian will have to confront in the courtroom.

(ii) The Government should consider further curtailing the period for which children can be detained, in emergencies, in a place of safety. The PSO has been criticised in the past for being a blunt tool. Nominally intended to cover only situations of dire emergency, the grounds which Parliament framed which justify the issue of a PSO include circumstances – such as persistent truancy – which can hardly be considered grounds of immediate danger to the child, warranting emergency removal. This ambiguity has been a key factor leading to the abuse of PSOs. Both the Magistrates' Association and the report of the inquiry into the Beckford case recommended that the maximum duration of detention in a place of safety should be limited to seventy-two hours, or when there is no relevant juvenile court sitting within the next seventy-two hours, up to a maximum of eight days, beginning with the date of authorisation. This severe limitation, if implemented, would be beneficial. It would end the practice whereby some SSDs use a PSO simply as a holding operation pending full care proceedings. It would ensure that social workers were clear about the basis upon which they sought such orders before they made an application to a magistrate.

(6) House of Commons Library, Research Division, Reference Sheet No 89/5, March 1989.

In short it would both lessen the abuse of the PSO, and improve the quality of decision making.

(iii) There is as yet no provision for an adequate and independent complaints procedure to which parents unhappy with their treatment by SSDs can appeal. The Government's proposals on this matter, indeed, illustrate the extent to which the Act's moves towards support for client's rights can still be hampered by old and false beliefs in the impartiality of the world of social administration' outside the domain of the legal system. The Act provides that complaints should be dealt with by a body set up by individual local authorities themselves. The only gesture towards making these bodies independent is the requirement that they include at least one member who is independent of the local authority. The proposal relies on an optimistic assessment of local authorities' capacity for impartial self-scrutiny: an assessment rightly rejected in other parts of the Act. A mechanism needs to be established which is truly independent of the SSDs, to which parents or the representatives of the children can take complaints, and which can act speedily to redress matters where the local authority has acted wrongly. This need not necessarily entail the establishment of a new quango. The best course might be to give the Social Services Inspectorate (SSI) the power of adjudication in those disputes between clients and SSDs which are not to be settled in court. The Inspectorate's Mission Statement says that the SSI has 'professional obligation to the people who need and use social services' (p.1). This obligation could surely be expanded to cover the role of adjudicator in disputes of the above kind. Such a solution might in fact produce less bureaucracy than the Government's present proposals – and would certainly stand a greater chance of doing justice, and being seen to do it.

These three issues will in the medium term form the basis of the future agenda for child care policy. In the short term, however, the Children Act introduces one particular change that will necessitate a major government initiative in the near future. The Act significantly relaxes the grounds upon which protection

and care orders can be made, giving social workers far greater discretion than they now enjoy. The present state of social work training gives little ground for optimism that such discretion will be judiciously exercised. Urgent action needs to be taken to improve the selection and training procedures for social work. This is the second major reform that needs to be enacted to tackle producer capture in social services; it is certainly a prerequisite to the granting of any greater discretion to social workers, as the Government now proposes.

4
Choosing and training the carers

Square pegs in round holes

As part of the 1970 local authority social services reorganisation which followed the Seebohm Report, the Central Council for Education and Training in Social Work (CCETSW) was established to take overall responsibility for control of selection and training for social work. Many of the ills from which Social Services Departments now suffer are attributable to CCETSW Selection and training has developed more to accord with the wishes and interests of aspirant and fully-fledged social workers than in response to the needs of the public. By any standards, CCETSW's failure either to emforce proper selection procedures or to ensure the relevance of course contents has been disastrous.

There has long been disquiet about the methods of selection and training for social work. In the mid '70s two studies suggested that the tasks which social workers were least keen to perform were those most valued by their clients, and the ones which in fact constituted most of their workload.[1] This implied a great mismatch between personnel and jobs: perhaps not surprising since, as Brewer and Lait commented in 1980, 'there appears to be nothing in the literature produced by CCETSW, nor in the professional journals, about assessment of personality of students seeking social work training'.[2] Although CCETSW has been a loud protagonist of social work's right to be treated like law or medicine as an established profession, it has failed to live up to the responsibilities which a true professional body must fulfil. It has failed to maintain standards of training and entry into social work. This has led to more and more hostile comment on CCETSW's performance.

Professor Martin Davies and Joan Brand have commented on CCETSW's paradoxical failure to set rigorous standards: 'in a profession which claims to be responsible for undertaking tasks requiring a high standard of performance, all those admitted to training from a wide variety of educational backgrounds are

(1) Brewer and Lait, op. cit., pp.59-60.

(2) Ibid, p.44.

virtually guaranteed success'.[3] And Professor R A Pinker has compared an estimated failure rate of only 1 per cent amongst social work students to the 25 per cent figure amongst medical students. As one academic wrote after the Beckford case: 'the unprofessional and almost random selection methods at present used, linked to student assessment procedures which seem almost designed to ensure that failure is a rarity, mean that the social work profession almost certainly contains more than a tiny minority of members who it would have been better (for their clients) if they had chosen, or been chosen for, some other career'.[4]

The effects of this lack of rigour in selection procedures can be seen above all in relation to SSDs' statutory duty to protect children. If trends have been towards a more interventionist approach since the early '70s there has nevertheless been a substantial minority of social workers who resent the 'social policing' functions of their job (as the the Barclay Report branded them) and think that this role should come second to their counselling and supportive tasks. A recent article stated that 'many [social] workers' felt 'sceptical' about their statutory tasks[5]. If so, one can only observe that such sceptics are out of place in SSDs, and that their scepticism daily puts the lives of children at risk.

CCETSW's failure to ensure minimum standards of entry into social work has been accompanied by an abdication of their duty to ensure that the Certificate of Qualification in Social Work (CQSW) – the normal qualification held by 'field' workers – is relevant to the jobs awaiting students upon qualifying. Much evidence suggests that the CQSW has been ineffective as a vocational qualification.

The Family Rights Group has attacked the 'shockingly low knowledge of basic law' which they have found amongst social workers.[6] Even the Barclay Report conceded that there was considerable dissatisfaction with 'the standard of welfare rights

(3) Ibid, p.46.

(4) *After Beckford?, Essays on themes connected with the case of Jasmine Beckford*, Royal Holloway and Bedford New College, 1987, pp.52-53.

(5) *Responses to Cleveland*, p.48.

(6) Family Rights Group op. cit., p.24.

advice given by social workers'.[7] All the major recent reports on the deaths of physically abused children have exposed deficiencies in the knowledge of even experienced social workers about their statutory duties. The social worker in the Kimberley Carlile case could have acted on his concern for Kimberley's health at any time by seeking a warrant under section 40 of the Children and Young Persons Act 1933: he did not, 'simply because he did not know about it [the warrant]'.[8] The panel of inquiry into Kimberley's death further found that this power 'was virtually unknown to all our social worker witnesses'.[9] The report on the death of Jasmine Beckford concluded that 'the social workers . . . displayed a total lack of understanding of, and indeed lack of commitment to, the statutory ingredient [of social work]'.[10] The Cleveland inquiry found that the county's Director of Social Services had casually approved a memorandum during the crisis which unilaterally redefined the grounds governing the use of PSOs: in the words of the report, 'he did not see it [the memorandum] as a very important document.'[11] In the nineteen years of its existence, CCETSW has done nothing to rectify this disastrous level of ignorance. Under CCETSW's 'relatively *laissez-faire* attitude to course development since 1971',[12] irrelevant and mediocre CQSW courses have flourished. Courses have owed more to the special interests of tutors and their students than to the need to train social workers to serve their clients. On the one hand much course material has consisted of thinly veiled political propaganda[13]; on the other hand, some training institutions have come to view the whole business of vocational training with distaste, preferring to explore academic social sciences and liberal arts subjects with their students.[14]

(7) Barclay, op.cit., p.119.
(8) *A Child in Mind: Protection of Children in a Responsible Society. The Report of the Inquiry into the Circumstances surrounding the Death of Kimberley Carlile*, London Borough of Greenwich, 1987, p.17.
(9) Ibid, p.145.
(10) London Borough of Brent, op.cit., p.230.
(11) Butler-Sloss, op.cit., p.65.
(12) London Borough of Greenwich, op.cit., p.177.
(13) Barclay, op. cit., p.110.
(14) Second Report from the Social Services Committee, Session 1983-84, HC 360-I, p.CIX.

Getting a grip on CCETSW

It is no longer acceptable (if it ever was) that CCETSW should shirk its grave responsibilities for selecting and training those charged with the protection of children. CCETSW needs radical reform. The original error was to leave control over training in the hands of a professional body which has until now been more or less free from external scrutiny. For years training has developed primarily to take account of the interests of tutors and their students, rather than in response to the needs of clients and of society. To remedy this it is advisable that CCETSW should be administered by a majority of non social workers. Perhaps, too, its workings should be subject to annual inspection by the Social Services Inspectorate reporting to the Minister of State. In any event, the need is clear for much improved political accountability of social work training. In the argument for the enforcement of more rigorous standards of assessment and training, no words are more eloquent than those used in the Kimberley Carlile report to summarise the failings of Mr Martin Ruddock, Kimberley's social worker: 'when seen by Mr Ruddock on 12 March 1986 [three months before her death] Kimberley was already suffering severe physical and emotional abuse. Clear evidence of both conditions was obvious. They should have been recognised and should have led to urgent action. How Mr Ruddock failed to see the blindingly obvious is explicable only by the fact that he was blinded by his incompetence in assessing clear deception of abusing parents'.[15]

Whatever the details of the Government's eventual reform of CCETSW, one guiding principle must be to ensure that social work training suits the requirements of the job (which at present it does not) – and another that there should be greater discrimination in selection. In particular, reform should bear the following in mind:

(i) Is there any place for a general social work qualification at all? It is questionable if a profession which lacks any agreed common core can be trained in any way other than by courses covering the specific tasks which social workers

(15) London Borough of Greenwich, op.cit., p.147.

are called upon to perform – e.g. dealing with abused children, or the physically or mentally handicapped. The CQSW could be replaced with separate diplomas certifying competence in each of the specialist fields which social workers are called on to deal with. Social work training must be made as vocational as possible.

(ii) Training itself should be conducted by practising social workers of proven competence and experience. It may be desirable for teaching staff to spend half of each year actually working in SSDs to keep them abreast of practical developments.

(iii) In the selection of personnel, greater emphasis must be placed upon recruiting those with practical experience relevant to the tasks which they will perform after qualifying. For instance those who themselves have been parents should be considered particularly suitable to protect children. This approach tallies with the Government's emphasis on using informal 'carers' in the community care initiative. No amount of academic erudition will by itself help a social worker to discern between abused and non-abused children and between deceiving and honest parents. As one professional has said recently, 'the ability to distinguish between the injury-prone child who comes from a 'rough and ready' background, but whose parents are reasonably caring, and the child subjected to chronic abuse, requires a sensitivity to the feelings of the child'.[16] It is not unreasonable to claim that this sensitivity is more likely to be found in someone who has already successfully raised a family than in an unmarried and childless graduate straight out of college.

(iv) Since the ability to make accurate judgements about children and family environments is not one which all those completing initial social work training will possess, it is sensible to propose that there should be a year of employment 'on trial' for all new social workers during which their practical skills would be assessed. Such a scheme already operates amongst probation officers.

(16) *Child Abuse: the Educational Perspective*, ed. Peter Maher, 1987, p.45.

Tackling the structure and content of training for social work is the most urgent reform that the Government must undertake. Only by this means can it ensure that SSDs perform the tasks for which they are responsible – and which those in need require.

Summary of Recommendations

The Family

The Government should back up its rhetorical commitment to the traditional family with specific policies. In particular, it should:

(i) examine proposals for an enforced 'liability to maintain', by which absentee natural fathers would pay maintenance to the mother of their child if that child is being cared for by the natural mother; and,

(ii) re-examine the present discrimination, practised by many local authorities, in favour of unmarried mothers awaiting council housing.

The Clients

The Government should fully endorse the principle of rights for social services' clients. This principle could be developed in practice by,

(i) providing tighter safeguards of the independence of the panels appointing the guardians *ad litem* who represent children in court cases;

(ii) curtailing more stringently the period during which a child may be detained in a place of safety;

(iii) providing a more adequate and independent procedure for complaints against the social services.

The Social Workers

The Government should urgently review the state of selection and training of social workers, taking into account the need for:

(i) a majority not drawn from social work practice to be in control of CCETSW;

(ii) training for social work to be as vocational as possible;

(iii) relevant experience, so far as is possible, when selecting social workers; particularly bearing in mind the potential of mature men and women who have raised families of their own, and perhaps cared for elderly relatives, too;

(iv) a probationary post-qualifying period, during which social workers' suitability and competence is assessed at work in families.