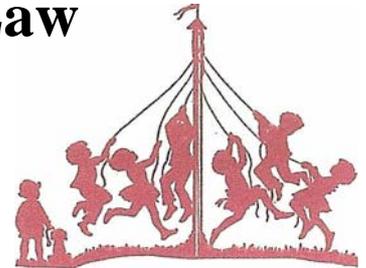


WORKING TOGETHER FOR CHILDREN'S WELFARE

Child Protection and the Criminal Law

REPORT OF THE CONFERENCE HOSTED BY THE
MICHAEL SIEFF FOUNDATION HELD AT
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Introduction

This year's conference was held at an opportune time to contribute to a number of initiatives by government and the major agencies, the topic chosen being one of growing importance and concern.

Participants were drawn from the health, legal and social welfare professions, the police, the civil service and local government, voluntary organisations and universities.

Summary

The Conference considered the origins and history of the civil law relating to child protection which grew out of, but developed independently from, the criminal justice system. The present conflicting requirements of the civil law relating to child protection and the criminal law concerned with prosecution provided one of the central themes of the conference.

The current situation was examined from the viewpoints of the medical and psychiatric professions, social services, the police, Crown Prosecution Service and judiciary, academic researchers and the Government.

The effects of the Criminal Justice Act and the subsequent Memorandum of Good Practice were considered in detail, and a comprehensive inter-agency process of investigating cases of child abuse was sought.

After splitting into small working groups which generated a variety of suggestions, the Conference united around a number of firm recommendations.

CONFERENCE RECOMMENDATIONS

The conference as a whole expressed its dissatisfaction with the current system. Children are not being adequately protected; system abuse prevails despite intended reforms. There is a need for radical change. Full implementation of Pigot would resolve some problems. There is a real concern that more children, families and professionals will opt out of the present process.

1. All professionals need reminding that the basic approach to concerns advocated in *Working Together* needs to be the primary approach, decisions about a Memorandum interview emerging from this process. Protection of the child needs to be kept in mind.

2. *Working Together* needs an addendum to assist practitioners in the development of their practice to include the Memorandum, but indicating a variety of responses including second-stage interviewing for vulnerable, disabled and very young children and how the interviewing and investigation may be integrated.

3. The full scope of the Memorandum needs to be pointed out and the inherent flexibility within it. Defence attempts to use the Memorandum as a rigid code need to be countered. Supplementary interviews may be needed and information gathered to assist CPS in deciding about prosecution or local authorities in deciding about care proceedings.

4. Joint training needs to be available on a continuing basis both locally and regionally to develop expertise. As a number of agencies are recruiting new members, training needs to be available for them. Police placement for five years assists this process, but there is a reluctance to commit social workers for this length of time and this may lead to police taking over the process to the detriment of the comprehensive assessment.

5. ACPCs need to create legal subcommittees which will include local authority legal representatives and CPS to work on local implementation of policy.

6. A judge with public-law Children Act training should try child abuse cases in the High Court. Magistrates on the family panel should deal with committals and other cases in the family court.

7. A timetable for child abuse cases should be established in civil and criminal proceedings.

8. Proforma about the conduct of proceedings should be exchanged between the civil and criminal courts and changes only be made on notice to the other court.

9. Cases should be reserved to a specific judge in both jurisdictions for substantive issues.

10. A listing officer in the care centre should be appointed by the Business Committee at the care centre to undertake similar duties to the Child Liaison Officer in the Crown Court.

11. There is a need to supplement existing judicial studies and to provide a new co-ordinated package of issues relating to children's welfare in criminal proceedings so that the judiciary can increase its awareness and understanding. The Bar Council and the Law Society should consider their codes of ethics in relation to the conduct of proceedings involving children and other vulnerable witnesses.

12. Judges should be given greater authority to intervene when children are being unfairly bullied and intimidated by counsel. This accords with recommendations 182 and 201 of the Runciman Commission.

13. In order to provide equitable access to all child victims within the criminal justice system, research should be commissioned to identify:

- Those technological aids and systems of support that may enable children with communications difficulties to testify;
- Those forms of support (e.g. advocacy, expert consultancy) which are required to enable such children to have the same opportunities to participate as other children;
- Those features of the legal process and legal rules which, in effect, render such children less able to participate.

14. Guidelines should be produced to ensure that, where necessary, children receive individual therapy without destroying the case. A booklet for therapists is recommended.

15. The child should be able to see the edited video before the court hearing.

16. Children should have "supporters" to see them through the process - a social worker, victim support volunteer or officer of the court. The supporter should be with them in the video room. This should not be the court usher.

17. Research findings on child protection should be made available to agencies in the criminal justice system. Such evidence demonstrates the value of family participation in the child protection process in terms of the child's welfare, family outcomes and effective use of resources. The dissemination exercise should be used in any redrafting of *Working Together*.

18. Few children subject to ACPC procedures are likely to be involved in a prosecution. The proposed supplement to *Working Together* should layout criteria which aid the identification of cases most likely to lead to prosecution and therefore require liaison between the child protection and criminal justice systems. This will save resources and unnecessary distress to the family.

19. Decisions about whether or not a prosecution is in the public interest should include an assessment of the likely longterm outcome for the child, non-abusing family members and the perpetrator. Research on the long-term sequelae (drawing upon methods available from studies of the civil system) will be necessary. Ways of maximising support to families in the criminal justice system should be a part of any scrutiny.