

WORKING TOGETHER TO SAFEGUARD CHILDREN. A GUIDE TO INTER-AGENCY WORKING TO SAFEGUARD AND PROMOTE THE WELFARE OF CHILDREN. HM GOVERNMENT 2013. A CRITIQUE.

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1. **Introduction**

- 1.1 On the 12th June 2012 the government published three consultation documents;

Working Together to Safeguard Children; draft guidance on what is expected of organisations individually and jointly to safeguard and promote the welfare of children.

Managing cases; the Framework for the Assessment of Children in Need and their Families: draft guidance on undertaking assessments of children in need.

Statutory Guidance on Learning and improvement; proposed new arrangements for Serious Case Reviews of child deaths and other learning processes led by Local Safeguarding Children Boards.

- 1.2 The closing date for response was 4th September 2012, the revised document was published on 21st March 2013 and was implemented on 15th April 2013. In publishing *Working Together 2013* the government has not provided any detailed information about the consultation responses. No summary has been produced and no list of contributors. This was not a transparent process.
- 1.3 The revision has reduced a document of 700 pages to just 97. It replaces *Working Together to Safeguard Children* (2010), the *Framework for the Assessment of Children in Need and their Families* (2000) and *Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004* (2007).
- 1.4 With colleagues, I submitted to the consultation process a detailed critique of the first

two revision documents which was endorsed by 50 leading child care organisations and individuals representative of key professions. There were other responses such as from BASW, NSPCC, the Interdisciplinary Alliance for Children, the Every Child in Need campaign and the ADCS - and there must have been many others (Davies et al 2012). There was a great deal of concern at the proposed loss of a document which had been slowly developed since the early 80s and was based on years of learning from research and the recommendations of hundreds of Serious Case Reviews. There was also anxiety that in a move towards deregulation and localism, the most vulnerable children would be unprotected and subject to a postcode lottery of varied Local Safeguarding Children Board protocols.

1.5 Edward Timpson, Children's Minister, recently expressed concern at, 'still far too much variation in child protection around the country' (2013). This situation will become increasingly serious because the new guidance requires each Local Safeguarding Children Board to decide thresholds for intervention and create local protocols (2013 p14). In this context, at a time of budget cuts, some authorities will no doubt restrict their child protection services.

1.6 *Working Together 2013* provides absolutely minimal guidance. Lawyer, and social worker, Allan Norman (2013) has suggested that, because Human Rights have been eliminated from the guidance, everyone should continue to keep the 2010 version of *Working Together* 'at their elbow' and ECPAT (2013), with respect to trafficked children, has commented that because of the lack of guidance, 'the repercussions could be catastrophic'.

2. Working Together 2013: the continuation of the policy shift away from proactive child protection

2.1 This document has gone much further in removing effective child protection procedures and undermining multi-agency working, than my colleagues and I had predicted in our critique of the consultation document.

2.2 Since the mid-90s, policy and practice has moved away from proactive child

protection. This has led to the demise of child protection systems and structures. The most significant change was the abolition of the child protection register in 2008. It was abolished on the basis of no research findings (Dhanda 2007) even though it was known that very few children who died from abuse had been the subject of registration. In fact, intervention processes failed children who had not had the benefit of a protection plan and were either unknown to agencies or defined as *children in need* rather than *child protection*. The Register provided an essential alarm to the emergency services and triggered a specialist response to children identified as at high risk of harm. A survey of hospitals (Rose 2009) suggested that many hospitals no longer received the alert once the Register was abolished.

2.3 However, Munro (2011), in her government review of child protection, concluded that there was no compelling case for a *national signposting system* of identifying whether or not a child is or has been the subject of a child protection plan and recommended that local authorities could provide 24 hour access to concerned ‘others’ who could phone children’s services, and make checks (Munro 2011:148). It is important to understand that, the Register was never dependent on an individual becoming concerned as the alert went directly to the emergency services routinely without the need for a request. A *National Child Protection Register* would protect children more effectively than local registers and should include missing children. Such a register would be a proportionate response to high risk situations and would assist the task of keeping children safe from harm across authority boundaries.

2.4 *Working Together 2013* comes at a time when there is evidence of unprecedented increase in serious crime against children. Child abuse occurs within families and this context provided the focus of the Laming and Munro reviews (2009 and 2011). However, there is a vast international child abuse industry that exploits children and includes trafficking for commercial, domestic and sexual exploitation, online abuse, the illegal adoption trade, the illegal organ trade, forced marriage and the trade in abusive images. These are not marginal issues but are addressed by professionals on a regular basis and yet the Laming and Munro reviews (2009 and 2011) were narrow in focus relating only to abuse within the family. Therefore the new guidance based on models of practice recommended in these recent reviews, omits examination of

complex joint investigative work required to identify and target perpetrators and protect numbers of children in the context of organised crime.

3. Working Together 2013: the language of protection has been minimised

- 3.1 The guidance describes who should read it in the most generic of terms, ‘all relevant professionals should read and follow this guidance so that they can respond to children’s needs appropriately’ (2013 p6). Such a statement is virtually meaningless. There is a list of agencies and individuals who commission, provide services for and have contact with children and families but this omits an emphasis on those who have responsibility for *safeguarding and promoting children’s welfare and protecting them from significant harm*.
- 3.2 The word *protect* is largely missing from the document and vague statements are rife e.g. ‘Anyone working with children should see and speak to the child’ (2013 p9). This statement is broad and is misleading about the complexity of the task of making decisions with regard to interviewing children in the context of protection and safeguarding. In a Glossary (2013 p85), the term *child protection* refers to activity undertaken to protect specific children who are suffering or are likely to suffer significant harm and omits ‘*as a result of child abuse or neglect*’ which was included in the previous version. Key definitions and terminology have therefore been left open to the possibility of misinterpretation. Concern at the loss of the language of child protection has been previously raised by Munro and Calder (2005).
- 3.3 The section entitled, ‘Initial child protection conferences’ makes no mention of the categories of abuse (now consigned to a Glossary) and no mention of ‘significant harm’ (2013 p40). Detailed guidance about conferences which was importantly and well presented in *Working Together 2010* has largely been omitted.

4. Working Together 2013: the Supplementary guidance

- 4.1 *Working Together 2013 Appendix C* includes supplementary guidance ‘which

professionals should consider alongside this guidance' (2013 p5). The guidance, as for previous versions, is statutory under section 7 of the Local Authorities Social Services Act 1970. However, there is confusion about the status of the Supplements.

4.2 *Working Together* (2006 and 2010) Chapter 6 summarised Supplementary guidance. It was clear that Chapters 1-8 contained guidance that was statutory whilst Chapters 9-12 were non-statutory practice guidance. All of the supplementary guidance had varying status as defined within the individual documents. However, within *Working Together 2010*, it was clear that these documents were included in the definition of being statutory guidance. The list as included in Chapter 6 (*Working Together 2010*) is as follows;

4.2.1 Home Office, Department of Health (2002). Complex Child Abuse Investigations. Inter-Agency Issues (*status; linked to Working Together 1999*)

4.2.2 Home Office (2004). Home Office Circular 10/2004 on the Female Genital Mutilation Act 2003 (*status; advisory only*)

4.2.3 DCSF (2007). Safeguarding Children from Abuse Linked to a Belief in Spirit Possession (*status; non-statutory*)

4.2.4 DCSF and Home Office (2007). Safeguarding Children who may have been trafficked. (*status; supplementary to Working Together 2006*)

4.2.5 HM Government (2008). Safeguarding Children in whom illness is Fabricated or Induced (*status; statutory under section 7 LA Social Services Act 1970*)

4.2.6 DCSF (2009). Safeguarding Disabled Children - Practice Guidance (*status; non-statutory*).

4.2.7 HM Government (2009). The Right to Choose; Multi-agency statutory guidance for dealing with Forced Marriage, and HM Government (2009) Multi-agency practice guidelines: handling cases of forced marriage (*status; statutory within Forced Marriage legislation*)

4.2.8 HM Government (2009). Safeguarding Children and Young People from Sexual Exploitation (status; statutory under section 7 *LA Social Services Act 1970*)

4.2.9 HM Government (2010). Safeguarding Children and Young People who may be affected by gang activity (*status; non-statutory*).

4.2.10 Guidance on allegations of abuse made against a person who works with children, which can be found in Appendix 5 of this document (*status; statutory*)

4.3 In a recent email exchange with the Department for Education it was clarified that the two documents which state that they are statutory (5 and 8) will remain statutory. It would seem that all the other documents now listed in Appendix C along with 36 other titles have no statutory status within *Working Together 2013* (Bacon 2013). However, the legal status of these documents remains unclear.

4.4 It is important to note that Supplements 1 and 10 have been omitted from Appendix C.

5. Working Together 2013: roles and responsibilities

5.1 This section has gaps and omissions. The section relating to the armed services, for instance, makes no mention of the protection needs of UK child soldiers as young recruits and trainees, including care leavers. This was addressed in *Working Together 2010* (2.177).

5.2 The police role omits any reference to Police Child Abuse Investigation Teams as covered in *Working Together 2010* (2.125). In *Working Together 2013*, there is only a sentence stating, ‘All police forces should have officers trained in child abuse investigation’. This is, incidentally, the only time the word *investigation* is in the document in relation to the protection of children. The omission of the police role and structure so central to the effective protection of children is very serious. It is as if knowledge gained from years of police specialist child protection work has been dismissed. A description of the strategy discussion refers to the inclusion of a police

representative rather than a police officer which would appear to indicate that civilians will be increasingly involved in the child protection police role (*Working Together 2013* p33).

- 5.3 Table A (*Working Together 2013* p92) omits some essential agencies such as education from having a role in section 47 enquiries. For example; probation as an agency has an essential contribution to investigating the risk to a child from a known perpetrator yet it seems in this guidance probation has no role in the section 47 process. (*Working Together 2010* omitted the police from this key duty - but this mistake has now been rectified).

6. Working Together 2013: the conflation of Assessment and section 47 enquiries and investigation

- 6.1 Edward Timpson MP, Children's Minister, speaking about the new protocols referred to a, 'clear framework within which professionals could exercise their expertise and judgement and which spelled out what different agencies could expect from each other' ... with 'core legal requirements on all professionals working to keep children safe' (2013). Yet the new guidance has created more confusion in concepts of protective intervention. Norman (2013) comments, 'The new version of *Working Together* has abolished initial assessment and blurred the boundary between child welfare and child protection concerns'. In the previous version, an initial assessment of 7, and later 10 days, led to a conclusion about whether or not a case was section 17 (child in need) or section 47 (child in need of protection). There was already concern about authorities delaying in commencing a section 47 when child protection was suspected or clearly evident from the point of referral. In some cases the delay had led to the death of a child. The change to 45 day assessments in *Working Together 2013* (p23) risks even further delay in a child protection response when indicated.
- 6.2 Chapter 1 *Working Together 2013*, is entitled *Assessing need and providing help* rather than clearly addressing the protection of children from significant harm. The investigation of child abuse, a parallel and distinct task from that of assessing a child's needs has, in this revision, become entirely replaced with assessment

processes. Assessment of need which contributed to the section 47 child abuse enquiries and investigation has now become the end in itself.

- 6.3 Assessment protocols are not fit for purpose in the investigation of significant harm to children from abuse and neglect. The trend to amalgamate the two was evident in the two previous versions of *Working Together* the most recent of which stated that ‘the core assessment is the means by which a section 47 enquiry is carried out’ (2010:5.62). This is not the case and this erroneous, and flawed approach to both children in need and children in need of protection is now solidified in *Working Together 2013*.
- 6.4 Section 47 involves an investigative process implemented by social workers, police and other agencies to protect children from harm. In assessment processes parental and carer consent is required for any contact with the child, the work is conducted throughout in partnership with the family and timescales apply. However, there can be no time limitation for an investigation of child abuse – the investigation continues until the child is made safe. The impact of this confusion may lead to a delay in immediate intervention to protect a child and a delay in the sharing of information across key agencies. Whether or not information may be shared without parental agreement is decided within section 47 processes. When a section 47 investigation has been agreed between police and social workers there is no requirement to gain parental or carer consent to child interviews or medical examinations if to do so may place the child at risk of harm. The work may be conducted in partnership with families and often results in a family support approach. However, it may involve challenging and confronting parents and carers about the detail of the alleged or known abuse of children and/or intervention to protect the child by removing the alleged or known perpetrator from the family or removing the child from the family.
- 6.5 The conflation of assessment and investigation has led to a lack of investigation and therefore an increased risk of false positives and false negatives. State intrusion into a family’s life must be proportionate to the reason for the intervention. The investigation of actual or likely significant harm to a child as a result of child abuse provides that reason. To create assessments of need as the only intervention is likely

to result in over intrusion into family life when a child is thought to need broadly and ill-defined *help* or as a response to a broadly and ill-defined *concern*.

- 6.6 Assessing a child's needs does not facilitate a child abuse investigation which may include - medical and forensic evidence, investigative interviewing, interviewing of the alleged perpetrator, intelligence gathering, profiling of alleged and known offenders, collation of information about modus operandi, venues, contacts, associates etc. The section 47 process may also involve large scale, national and international investigations of institutional and organised crime against children. Sometimes the family may be involved as perpetrators or be in collusion with the abuse. *Working Together 2013* reduces all child in need and child in need of protection work to simplistic statements which do not allow for the complexity and specialism of the professional tasks. Edward Timpson said, in my view irresponsibly, in his recent speech , 'there's nothing more important than protecting children from harm. Where children are suffering abuse or neglect they should be taken into care more quickly'. Protecting children can be achieved through a wide range of responses and planning – removal into care is sometimes necessary but it must always be only one of many options in safeguarding the child. This is indeed complex and specialist work.
- 6.7 Recommendation 13 of the Victoria Climbié Inquiry Report (Laming 2003) suggested the need for a step by step guide on how to manage a case through either a section 17 (child in need) or a section 47 (child in need of protection) track as separate and distinct processes. This recommendation was not developed in *The Protection of Children in England* (Laming 2009) or in *The Munro Review of Child Protection* (Munro 2011). The review of the use of more flexible assessment processes in eight trial authorities following the Munro Review (Munro 2011, Munro and Lushey 2012) focused entirely on assessment processes and particularly on the specificity of timescales. It did not examine the impact on the protection of children through statutory protocols.
- 6.8 The conflation of the two processes has led to inaccuracies in the guidance. For example, it is the responsibility of the social worker to make clear to children and families how the assessment will be carried out and when they can expect a decision on next steps (*Working Together 2013* p24). There is no caveat about 'if to do so

would be in the child's best interests' which must always be considered in enquiries about risk of harm. In the absence of the caveat, such an action could result in further abuse to a child. Similarly in the section 'response to a referral' (Working Together 2013 p26) it states, 'the child and family must be informed of the action to be taken'. This advice is correct for an assessment of need but incorrect for a section 47 enquiry/investigation when stated without the inclusion of a caveat. The concept of a linear approach from a situation of need to harm is flawed. The situation for a child could be significant harm from the moment of referral. The caveat, 'unless to do so would place the child at risk of harm' is also missing from the section 'Initiating section 47 inquiries - with reference to social workers seeing the child (Working Together 2013 p36). This might seem simplistic, but to an experienced child protection investigator it is obvious that any decision to interview or see a child is made with great care considering the possible negative impact on the child before they have been made safe.

- 6.9 Other aspects of this guidance has minimised the protective role of multi-agency work. For example, the strategy discussion tasks (Working Together 2013 p33) describe the decisions being made as to, 'what immediate and short term action is required to support the child and who will do what by when..' Previous guidance stated the action to be to 'safeguard the child and promote their welfare'. In this content the word 'support' is vague and the guidance has been dumbed down. Omitted from this section is the importance of respecting a child and family's ethnicity, considering the need for interpreters and also the importance of considering all the children in the household - which were included in *Working Together 2010* (5.58).

7. Working Together 2013: the omission of chapters from previous guidance

7.1 The omission of Chapter 4 (Working Together 2010) 'Training, development and supervision for inter-agency working'.

- 7.1.1. *Working Together* (2010:127) provided detailed guidance on various level of child protection training including advanced level training in section 47 enquiries including investigative interviewing. It is important to note that government

commissioned research, cited in *Working Together* (2010:112), omitted to include this aspect of child protection training because it did not fall within the remit of Local Safeguarding Children Board responsibilities as it involved just two agencies - police and social work (Carpenter 2009). This important aspect of specialist training was also not addressed by Laming (2009) or Munro (2011). It is of high significance that neither Lisa Arthurworrey (social worker for Victoria Climbié) nor Maria Ward (social worker for Peter Connolly) had undertaken this specialist advanced level joint training with police (Davies 2008).

7.1.2. The *Achieving Best Evidence* guidance (NB: a serious omission from Appendix C of *Working Together 2013*) requires a child-centred interview to be conducted collaboratively by police and social workers (Ministry of Justice 2011:2.22). However, there has been a reduction in the provision and availability of joint child protection training at advanced level in section 47 investigation and investigative interviewing of children. With few social workers now trained in these skills, it is not uncommon for police to conduct child interviews without social work involvement.

7.1.3 As multi-agency training is now mentioned in *Working Together 2013* as a Local Safeguarding Children Board responsibility, there will be varied approaches across the country and inevitably some professionals will not gain the skills they need to protect children. In the absence of specialist joint training, practitioners will make errors of judgement through lack of expert knowledge, the risk of false positives and false negatives will be high and the quality of information available to child protection processes and court proceedings will be poor.

7.2 The omission of Chapter 6 (Working Together 2010) ‘Supplementary guidance on safeguarding and promoting the welfare of children’.

7.2.1 Chapter 6 (Working Together 2010) covered important aspects of child abuse highlighting the specialist nature of particular issues relating to disabled children, child victims of sexual exploitation, organised abuse and fabricated or induced illness. The Chapter included female genital mutilation, forced marriage and honour-based violence, abuse linked to a belief in spirit possession and child victims of trafficking.

Child protection issues which relate substantially to Black and Ethnic Minority communities have been given no emphasis throughout *Working Together 2013*.

- 7.2.2. Chapter 6 had provided an essential signpost to relevant documentation. For example, ECPAT comment that there is now no reference to the need to refer children who are trafficked to the *National Referral Mechanism* and that ‘charities fear this will leave professionals either unaware or confused about the referral process, meaning trafficked children are put at significant risk of further harm’ (2013).

7.3 The omission of Chapters 9 and 10 (Working Together 2010) ‘Lessons from Research’ and ‘Implementing the principles on working with children and their families’.

- 7.3.1 Chapters 9 and 10, which were non-statutory aspects of *Working Together 2010*, could have become a separate publication covering research findings and principles of working with children and families. However, for those practitioners and managers who work with children, *Working Together* has been an invaluable source of knowledge and guidance, and is widely used in informing training and supervision, the investigation of complaints and disciplinaries, court hearings (both civil and criminal), direct work with children, therapeutic work with children and families and offenders, the work of MARAC and MAPPAs, local councillors, policy development etc. The list is endless. It is regrettable that none of this was included in the new document. It is important to recognise that some forms of child abuse may be concentrated in certain areas of the country so that some professionals will not be familiar with certain types of abuse. National guidance provides a vital source of knowledge which is easily accessible in one document.

7.4 The omission of Chapter 11 (Working Together 2010) ‘Safeguarding and promoting the welfare of children who may be particularly vulnerable’

- 7.4.1 Chapter 11 *Working Together 2010* focussed on specialist areas of work highlighting risk to the most vulnerable children. Locally written protocols may not include this level of detail as they will vary depending on the level of skill, knowledge and experience of the authors across the country. The high quality and reliability of

the former guidance has been lost to professionals seeking specialist knowledge on a specific topic. One example is the omission of organised and complex abuse

7.4.2 Along with omitting the CAIT teams in the summary of the police role the new *Working Together* (2013 p51) also omits an entire method of joint police and social work investigation addressed in *Working Together 2010:194*. The definition of *organised abuse* has been omitted from the Glossary, which now contains the definitions of abuse categories (*Working Together 2013 App A*). At the current time when there is so much information emerging about historic and current organised and institutional abuse of children it is very difficult to comprehend why the method of investigation of organised and complex abuse detailed in *Working Together 2010* (Chapter 11), as well as the statutory guidance it was based on, has been removed.

7.4.3 In response to a question about this omission, the Department for Education responded that a link had been provided to the police guidance on *Investigating Child Abuse and Safeguarding Children* which has a section on organised abuse (NPIA 2009:34). The response also stated that this guidance is currently being reviewed by the College of Policing and as part of this review links with *Working Together* will be considered (Bacon 2013). Interestingly, this guidance refers back to the relevant section of *Working Together* (2010) and to the Home Office guidance (2002) both of which have been omitted from the new *Working Together* (2013). Importantly this one page is, of course, police guidance and cannot be said to apply to all agencies. The investigation of organised and complex abuse of children cannot and should not be a matter for police single agency protocols. It must be situated within the national multi-agency guidance. Interestingly in this context, a recent report (Gray and Watt 2013) made very marginal reference to the role of Children's Services in the investigation of the historic abuse of children by Savile.

7.5 The omission of Chapter 12 (Working Together 2010) 'Managing individuals who pose a risk of harm to children'.

7.5.1. Children cannot gain protection unless the focus of multi-agency investigation is the

alleged or known perpetrator as well as the child and family. Chapter 12 (Working Together 2010) contained valuable guidance about how to investigate those who harm children and addressed the work of the MAPPAs and MARACs. A focus on *assessment of need* removes social workers from a focus on perpetrators and the lack of joint investigation leads police to tread this path alone without the assistance of other agencies. This was a key factor in the case of Peter Connolly and it seems no lessons have been learnt by the Government.

8. **Conclusion: some key points**

- *Working Together 2013* is a poorly constructed document containing broad generalisations, errors and inaccuracies. The complexities of multi-agency child protection working cannot be sufficiently presented by simplified flow charts and tables.
- The guidance has been introduced without reference to the detail of the consultation process leading to a belief that some of the considered opinions and concerns of the specialists who contributed to the consultation process have been disregarded.
- The guidance is not situated within a framework of children's rights and human rights legislation.
- The shifting of national responsibility for child protection guidance to Local Safeguarding Children Boards will subject vulnerable children, adult survivors and professionals to a postcode lottery of different protocols and varied implementation.
- The guidance is confusing about the status of the Supplements and there should be a consolidating document provided so that the legal framework is comprehensible to those applying and/or affected by it.
- The guidance omits reference to important and central areas of child protection policy and practice including training and development.
- The guidance omits a focus on specific child protection issues relating to black and ethnic minorities.
- The guidance omits a focus on disabled children and other identified and particularly vulnerable children.
- Organised and complex abuse has been omitted from the guidance in all respects.
- Child protection practice is confused and subsumed within an assessment approach whilst methods of joint investigation under section 47 are largely absent.

- The police role and that of the CAIT teams, in protecting children from significant harm, and in the investigation of crime, is marginalised. There is a lack of emphasis on joint investigation by police and social workers and joint investigative interviewing of children.
- The central role of agencies which identify and target perpetrators as having a major contribution within section 47 enquires and investigations has been omitted.

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