Rethinking Child Protection Strategy

Exploring the limits of State power and private rights in respect of the adequacy of child protection and safeguarding complaint processes and legal remedies

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England is in the process of introducing a mandatory reporting system but not based on any notion of child abuse but on the basis of ‘a cause for concern’, which is not defined in the legislation. The new policy of ‘safeguarding’ children has a much wider remit than just ‘protecting’ children from abuse or neglect.

(Munro and Parton 2007:14)

- S.47 Children Act 1989 Part V – duty to investigate, coercive power, protective.
‘Theory of Child Protection Circuit’

1. There is a high prevalence of child abuse which can be defined and identified.

2. That the state has a duty to do so, and to take steps to protect a child once it has done so.

3. That in order to do so a system of risk prediction is possible with a sufficiently accurate confidence limit.

4. Following risk prediction timely early intervention is an appropriate welfare response to mitigate the risks of future abuse in families identified as high risk.

5. That failure to predict and mitigate serious cases of child abuse are investigated by public inquiries and SCRs, aiming to establish how to do the previous 1-4 'truth's' better because...
Harm, potential scale and remedies

- Research worldwide limited but emerging – potential for harm by coercive State practices
- PTSD-type symptoms reported
- Not formally recognised thus no specific remedy
- Potential annual scale in England = **592,600** (in 2013/14)
- Emerging problem and an unintended consequence

- **Complaint system**
- **Judicial Review** (review of process, limited scope)
- **Defamation** (qualified privilege restricts claims)
- **Negligence** (restricted, child may have claim but not parent)
- **Human Rights Act 1998 primarily Article 8** (limited in scope)
Rethinking child protection strategy

A confused system characterised by a welfare/policing dichotomy

Fundamental aim of system – theoretically assistive/supportive (welfare) but ‘policing’ embedded into previously consensual aspects

A problem for families faced with the ‘working with’ agenda. ‘Working with’ = necessary compliance

Bespoke remedy: is there a case? Are existing remedies adequate? Theoretically yes, research suggests not

Supporting the family – emerging reports of harm suggest deeper consideration of system consequences.
Rethinking Child Protection Strategy project publications


