

THE VICTORIA CLIMBIE INQUIRY

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BAAF Response to Key Questions for First Seminar

Prepared by John Simmonds and Jeffrey Coleman

BAAF Adoption and Fostering is the leading UK-wide membership organisation for all those concerned with adoption, fostering and child care. We:

- promote the highest standards of child centred policies and services
- speak out on behalf of looked after children
- influence UK-wide policy and legislation
- provide much-needed information and advice
- promote greater public understanding of adoption and fostering
- support our members in their work

1. Discovery and Inclusion

"Digging deep - where are the children? Are they getting the services they are entitled to?" (First seminar)

There are many ways in which children and their carers come into contact with the various agencies that operate nationally, such as education, health, employment, housing, social services, police and social security. Many agencies operating at a local level also come into contact with children and their carers. Ways must be found to make the most of these opportunities for the benefit of children and their carers.

Tracking the whereabouts of every child in the country would be an enormous task for any agency and is clearly not a realistic option. One option however, is to improve the mechanisms by which agencies share information and work in partnership to ensure that children and their carers receive the services that they need.

The community at large has a very important part to play in ensuring the well being of children and their carers. We should therefore explore the role that society can play in ensuring that children and their carers have access to the services they need and are entitled to.

Key questions are:

i. How can children who are not known to national or local agencies be identified, including those:

- **Newly arrived in England**
- **Recently moved within England**
- **Not living with their birth parents**

to ensure that they receive the services they are entitled to?

ii. How can the wider community be encouraged to participate in this process?

iii. How can relevant agencies work better together to improve the ways in which the whereabouts of children can be monitored more effectively?

iv. How can the relevant agencies take account of information on children and their carers from a variety of sources and use the information to ensure that children and their carers receive the services to which they are entitled?

BAAF Response

The later Seminars direct attention to the many failures of the child protection and child welfare system in terms of assessment of need, service delivery, and monitoring that all, in different ways, contributed to Victoria's death in February 2000. BAAF will be offering comment on these in due course. Our initial comments focus on how and why Victoria could have remained outside some of the basic protective networks of the child welfare system.

The great majority of children do very easily come into contact with mainstream services such as health and education and as a result, where there are concerns, can be referred for investigation. It is important to acknowledge that Victoria was in fact quite involved in a number of statutory agencies. However, despite the involvement of these agencies and professionals from a variety of disciplines, it appears that Victoria was never seen by a GP or school nurse in the community, and was neither registered with or attended a school.

The tragedy of Victoria's death has understandably been the occasion for outrage on the part of the general public and impassioned comment in the media and for painful self-examination on the part of the many individuals involved in her care and questioned by the Inquiry. However, in BAAF's view the thorough investigation now being undertaken by the Inquiry, in accordance with its Terms of Reference 'to make recommendations as to how an event such as Victoria's death might be avoided in the future', opens a window of opportunity to improve the systems we have in this country for protecting children who have come here from abroad and/or are separated from both parents, and to debate the need for radical measures.

Children who are privately fostered

One significant category of children living away from home are those who are privately fostered. Victoria's case highlights the risks involved in the current loosely regulated private fostering system. BAAF believes the current Inquiry should be the catalyst for addressing the needs of privately fostered children.

Although her account of her relationship to Victoria to official agencies would vary in points of detail, Marie-Therese Kouao successfully maintained the pretence that she was Victoria's mother. Despite the accumulating evidence of abuse, none of the agencies got to grips with the task of clarifying the actual nature of her relationship with Victoria, which was that of great-aunt. So throughout her period of residence in England, the legal reality was that Victoria was a privately fostered child. This follows from the definition in child care law of a private foster carer, which is someone who cares for a child up to the age of 16 for 28 days or more and is not the child's parent or immediate relative (as defined in The Children Act 1989).

However, it is a disturbing reflection on the shortcomings in the current framework for the regulation of private foster care, and on the lack of resourcing and lack of professional and public awareness of these children's needs, that even if Victoria's true legal status as a privately fostered child had come to light it would have been very unlikely that this knowledge in itself would have prompted effective professional intervention.

The case for change

As BAAF noted in its letter to the Inquiry dated 12 November 2001, there have been repeated calls on Government to protect privately fostered children by requiring local authorities to maintain a register of approved private foster carers and to make it an offence for a carer who is unregistered to look after a child for more than 28 days. In sharp contrast to the rigorous standards now being applied to children accommodated by local authorities, for children privately fostered for 28 or more days the current system only requires notification of the arrangement to the local authority plus the maintenance of contact with the child and carer; only in an extreme case can the carer be declared an unfit person to foster. It is well known, and accepted, that only a very small proportion of private foster carers notify local authorities at all. Private fostering remains an underground activity, and the current unsatisfactory situation has been allowed to continue for many years

This is a policy area where for some years BAAF has identified, and campaigned for, the need for change. **'A very private practice - An investigation into private fostering'**, the recent report commissioned and published by BAAF, fully documented the case for urgent reform of law and practice in this area. At present even quite basic facts about privately fostered children, such as their numbers, level of health and well-being, adequacy of placements and movements between placements and carers, cannot be known with certainty. The Department of Health estimates that 8-10,000 children are in such circumstances and that the majority, perhaps two thirds, are black children of West African origin. Many birth parents make these private fostering arrangements while studying, working long hours or living overseas. A proportion of

these children, lacking the protection of monitoring and supervision, will be vulnerable to emotional, and in some cases, physical harm.

An opportunity for a fresh impetus to addressing the needs of this group of children had already arisen some years ago with the publication of Sir William Utting's review of safeguards for children living away from home ('**People Like Us**') in 1997. Utting had considered it plain from his review that of all the environments in which children lived away from home private fostering was among the least controlled and most open to abuse, and that an unknown number of privately fostered children were likely to be seriously at risk. His conclusion was that the current system should no longer be tolerated.

BAAF's recent proposals on private foster care

BAAF has published, in November 2001, a detailed programme for reform requiring action by central and local government. The main points of our proposals are:

Action for Central Government

- Legislation should be introduced to require local authorities to maintain a register of private foster carers within their area
- It should be an offence to foster a child privately if the carer is unregistered or to place a child with an unregistered carer
- The government should lead and resource a continuing awareness campaign to inform professionals, birth parents and private foster carers of their legal responsibilities
- Local authority private fostering services should be included in the remit of regulated services to be inspected by the National Care Standards Commission
- Each local authority should be required to appoint a designated social work manager with specific responsibility for private fostering
- DH Standards should be developed to guide local authorities on the criteria to be used in assessing private foster carers for registration
- A Code of Practice should be developed by the DH to recognise the differing circumstances of children who are privately fostered

Action by Local Authorities/Social Services Departments

- Each local authority should address private fostering in its Children's Services Plan, and ensure the principles of the Children Act 1989 are incorporated into its policies and guidelines on private fostering
- Local authorities should ensure private foster carers are kept informed about assistance and benefits to which they are entitled

- Local authorities should ensure private fostering arrangements are subject to written contracts, which allow for children maintaining attachment to their parents
- When a local authority becomes aware of a privately fostered child who has moved from another local authority area with his/her carer, it should inform the previous local authority. When a private carer moves to another area the local authority should inform the receiving authority
- Professionals, for example GP's, health visitors, teachers, housing officers - should have a duty to inform the Social Services Department when they suspect a child is being privately fostered.

A need to debate more radical measures

The implementation of BAAF's proposals on private foster care would assist in achieving improved monitoring and supervision for a substantial number of potentially at risk children. We have acknowledged in our earlier letter to the Inquiry, however, that these proposals by themselves may not have protected Victoria.

The duty to protect and promote children's development has always to be balanced against the right to privacy and family life as a human rights issue. Should that balance be redrawn in the light of the experience of some of the flaws in the organisation of child welfare evidenced in Victoria's case?

We would ask the Inquiry to consider the following further points:

1. In view of the inability or failure of Victoria's great aunt to ensure that she was enrolled with and attending a school, seen by a school nurse and GP, it has been suggested to us that it may be useful to explore whether entitlements within the wider tax and benefits system should be linked to a responsibility by a child's immediate carer to make sure these basic child care tasks are carried out. There are obvious objections to such a proposal: it would be essential to avoid discriminatory implications against any particular section of the community, and to avoid 'sanctions' that would be merely compounding a particular family's parenting difficulties. Such a debate would nonetheless be valuable if it could explore how parenting responsibilities could be better clarified and supported.
2. Whether all children who are privately fostered should automatically be regarded as 'children in need' should be a matter for further examination and debate. Although children who are privately fostered will include children in varying circumstances, this is an area of policy requiring further guidance.
3. While conscious of the need to avoid proposing draconian new ways of identifying children in lieu of the more adequate health and social work responses that should have been made in relation to Victoria's specific circumstances, we feel it is worth considering whether there should be a new and wider responsibility on parents to notify local authorities whenever their child is not living with them or with other members of the birth family for longer than a specified period of time.

Key Question:

v. What, if any, are the implications for children from ethnic minorities?

BAAF Response

The UK's ambivalence towards children arriving from abroad

The international nature of many of the cases social workers are now expected to handle is reflected in the increasing diversity of service users. In the early 1990s, outbreaks of civil war and social upheaval in Africa and Eastern Europe have generated flows of asylum seekers to the UK though the political context in which they have been received has been often deeply unwelcoming. Children and young people arriving here include -

- Those children who arrive as members of families claiming asylum including those where the actual family relationships are difficult to determine.
- Those children who arrive as unaccompanied refugee children
- Those children who are part of the system of trafficking in children.
- Those children who are brought into the country as part of the sex industry
- Those children who arrive with a courier and are then abandoned to become unaccompanied children

Work with these different groups has exposed the inadequacy of existing paradigms of policy and practice in addressing contemporary social problems. In particular there are practical issues about resourcing both mainstream and specialist services that are capable of understanding and responding to the needs of these children. Their broken narratives, the risks that they have run in gaining entry to the UK and the trauma and uncertainty that they experience and face can be overwhelming. The ambivalence of the UK in accepting these children as children firstly and foremost and not as a unwelcome intrusion or demand is made clear on an almost daily basis in the media. At every level therefore these children face an uphill struggle to have their rights recognised and their needs met.

In order to address this BAAF believes that there is a continuing and fundamental need -

- to re-assert the UK's obligations and duties under the UN and European Conventions and domestic human rights legislation
- to pro-actively assert the child centered focus of mainstream and specialist children's services
- to proactively develop protocols that ensure that in any service for children, the perspective of the child is developed through policy, procedure and practice

- for training to be available to all staff in what a 'child focused service' might mean for them on a day-to-day level. In particular, any professional employed directly in working with children should directly observe children in their daily activity without interference from professional role or responsibility as part of their training
- for all organizations to monitor and report on their activities and outcomes in 'child focused services' on an annual basis.

(Please see Selam Kidane: 'Food, Shelter and Half a Chance - assessing the needs of unaccompanied asylum seeking and refugee children' (BAAF 2001))

British Association for Adoption and Fostering , Skyline House, 200 Union Street, London SE1 0LX

Tel 020 7593 2000 Charity Reg. 275689 www.baaf.org.uk