

**BRITISH ASSOCIATION FOR ADOPTION & FOSTERING (BAAF)
FAMILY RIGHTS GROUP
FAMILY WELFARE ASSOCIATION
PARENTLINE PLUS**

Evidence to House of Lords Select Committee on Merits of Statutory Instruments:

1. **QUESTION 1 Objective:** *Do you think that ContactPoint, as now proposed, will adequately achieve its declared aim of “supporting more effective prevention and early intervention, to ensure that children get the additional services they need as early as possible”? If so, can you exemplify the benefits that your organisation sees from ContactPoint? If not, can you explain any reservations that you may have?*
- 1.1 No. The DfES has stated that a universal database is **necessary** to enable early intervention and effective prevention (Explanatory Memorandum, paragraph 7.9). We disagree for the following reasons:
- 1.2 **Deterring families from engaging with officialdom:** There are a number of reasons why some families and children do not access services to which they are entitled and/or which would be of benefit to them. These reasons include a lack of awareness of the services available, a reluctance to engage with ‘official’ bodies, difficulty in getting their needs assessed by the local authority and, most commonly, limitations on availability of services because of insufficient resources. The £224m set-up costs and £41m annual running costs (probably an underestimate) of Contact Point (which contrast with the sums of £13.5m for 2007/08 and £89/96/107m for 2008-11 promised by the Government to implement the White Paper¹ changes) could, with far greater benefit, be spent on significantly expanding support services for vulnerable children and their families which address these obstacles more effectively. This would be consistent with the thrust of the White Paper, for example:
 - Earlier access to child and adolescent mental health services for children and young people with problems – along with alternative ways of reaching out to such families earlier on. For example, Parentline Plus Individual Telephone Support service has been found to be very effective.
 - Respite care for children with disabilities and for young carers.
 - Family Aide type work for parents with mental health issues and with learning difficulties.
 - Improving support for extended family members who care for children whose parents are unable to look after them.

We fear that, if anything, ContactPoint may actually deter families who mistrust officialdom from accessing services because they may well have their anxieties heightened at the idea that their details are to be recorded on a universal database.

- 1.3 **Database may create false sense of security:** There is a further danger inherent in the ContactPoint scheme, namely that where a professional has recorded on the database that they are involved with a child this could erroneously be regarded by them as having taken action in respect of the child. The draft guidance (3.28) does provide a reminder to practitioners that an entry on the database is not a substitute for taking action, but there is

¹ DfES, Care Matters: Time for Change, June 2007, TSO

nevertheless a risk that the mere entry could create a false sense of professional security, and potentially leave children less protected than they are currently because time pressed practitioners may simply log their details instead of making a referral to the local authority for a needs assessment or child protection (s.47) enquiries as appropriate.

- 1.4 **Information may be out of date and therefore misleading:** There is also widespread concern that much of the information held on the database will be inaccurate because it is too costly and unwieldy to ensure all the information is up to date all the time as discussed further below. The consequence of inaccurate information being relied on is that it could delay or deter prevention and intervention. It is often families with the most complex needs that move around most often, and where there is therefore the greatest risk that the details on the Database will be out of date.
2. **QUESTION 2 Consultation:** *Do you think that the interests of CYPF have been adequately taken into account in the proposals for ContactPoint? Can you set out the reasons for your views on this issue?*
 - 2.1 We are concerned about the impact of the proposed regulations on CYPF. We are not convinced that the alleged benefits of the system are sufficient to justify the considerable invasion of privacy involved. While the **nature** of a practitioner's involvement with a child will not itself be disclosed on the database, the **fact** of the involvement will be (apart from 'sensitive services' and even here the fact that 'a' sensitive service is involved will be indicated). It should surely be a matter of choice for individual children and families what information about themselves they share with professionals and organisations with whom they come in contact. While these normal rules of privacy and confidentiality can rightly be overridden in cases where a child may be at risk of harm, we see no justification for overriding them in other circumstances. It must be borne in mind that the Database will cover all children up to the age of 18, including those 16 and 17 year olds who are in employment or already married. Although there has been consultation on aspects of the proposals we suspect that the public are by and large ignorant of what is planned. There are a number of specific areas of concern:
 - 2.2 **'Sensitive services':** These are defined as specialist or targeted services relating to sexual health, mental health or substance abuse. While consent will be required to include information about these services in the Database, other services too also carry a degree of sensitivity. The police, for example, are required to provide information to the database. Is it right that the child's school or doctor should **automatically** be able to access information to indicate that the police authority has information about the child? The information may or may not be relevant to the services that other agencies may need to provide, but its relevance cannot be ascertained without contacting the police authority for further details. In the absence of such further enquiries, the child may be the focus of unjustified suspicion; if the enquiries are made, this will take time which could be better spent.
 - 2.3 **Accuracy of information:** The Government has rightly stressed the importance of trying to ensure the accuracy of information on the database, but we believe it has seriously underestimated the difficulty of this task. Local authority data administrators will have responsibility for data matching and cleansing, and following up any discrepancies (Draft Guidance, paragraph 4.52). Data matching will be done, we are told, as far as possible, automatically by ContactPoint. Experience of computerised databases shows that they are often unable to distinguish between minor or irrelevant discrepancies (for instance the listing of a house name as well as a street number) so that human input will then be needed when the automatic system throws up an apparent discrepancy. There will be considerable

work involved also in ensuring that where agencies' involvement has ceased, the point at which this happens is recorded, and an appropriate decision made as to whether the information of the earlier involvement should be retained for longer than the minimum period of one year, with managers also having a responsibility to ensure that any such decision is annually reviewed.

2.4 **Provisions for 'shielding' records:** The database will include information as to the child's current address, the names and contact details of any person with parental responsibility and the person caring for the child. In the case of a child looked after by a local authority (which will include those subject to care orders, those voluntarily accommodated, children placed for adoption, and some others), this will usually mean that the names and contact details of one or both parents, the name and contact details of the foster carers, the child's current address, and the contact details of the person within any local authority that has parental responsibility for the child will be included.

2.4.1 Regulation 6 contains provision for 'shielding' certain information, and the draft guidance sets out the circumstances where such action may be taken. If this is done, searches for records containing shielded data will show only limited information, 'and none which will identify a child's whereabouts or locality'. (Draft Guidance paragraphs 4.63ff). The regulations as drafted do not appear to permit the withholding of the **name and contact details** of the **person with care** of the child, or who has parental responsibility for him. This would mean that, for example, the name of a person with a special guardianship order, a foster carer or prospective adoptive parents would have to be disclosed to those entitled to access the Database. While it would be possible for the local authority to deny access to this information to the child's parent who requested access to the Database information on 'behalf' of his or her child under the Subject Access Provisions of the Data Protection Act, the fact that a large number of other people (some of whom might not appreciate the sensitive nature of the information) could have access will increase the sense of insecurity felt by some alternative carers, particularly prospective adopters, who may sometimes be caring for children whose own birth family members present a danger to them.

2.4.2 There is also inevitably an element of subjective judgment about those cases where 'shielding' is justified. Instructions to 'users' of the database (i.e. those recording information) in the draft guidance (paragraph 4.67) tell them to 'act promptly' if they have 'strong reasons' to believe that there is risk of significant harm or serious crime if the information remains visible, and to respond to requests from a child or parent/carer for shielding by judging whether this is appropriate. A person whose details are not shielded because the database user does not consider the risk sufficiently serious would appear to have no recourse, apart from invoking local authority complaints procedures, which inevitably take time. Even if the complaint is upheld it may by then be too late to ensure that the information is not inappropriately disclosed.

3. **QUESTION 3: Implementation:** *Do you think that preparations for implementation are adequate, e.g., in the areas of training for those who will use ContactPoint, and of communication about the system?*

3.1 There are a number of areas of concern here. Those practitioners who were aware of the proposals at the time that the legislation was going through Parliament will recall that there was debate about the meaning of the phrase 'cause for concern' in section 12(5). This precise phrase has not now been used in the regulations, but confusion may still remain as to the purpose of recording agencies' and practitioners' involvement. There remain – quite

properly – some areas where the exercise of individual professional judgment will be needed, in the decision as to the length of time for which information should be retained after involvement has ceased, and as to the disclosure of information to those who contact a practitioner whose details are recorded. This is a complex area and the training of practitioners on these points will need to be of a very high calibre.

- 3.2 Drawing on our practice experience we are also aware that there is already considerable confusion amongst practitioners about what can and cannot be logged on the two new electronic practice tools which are being introduced in parallel, namely the ICS (Integrated Children’s System) and ContactPoint, and what information can be accessed by whom on each of these systems and when consent if required. These issues also have considerable implications for training as the range of people who need to have a good understanding about how these two systems operate is vast.

4. OTHER AREAS OF CONCERN

4.1 Collection of irrelevant material: The database is likely to contain contact details for practitioners from a wide range of organisations who are required to provide information, irrespective of the degree of its relevance to the wider objective of providing support and services for children. Local authorities (and not just children’s social services departments and schools) are required to submit information. No exception appears to be made for such services as libraries or sports and recreation. This will mean that those who access the database will need to sift through a great many entries which may have only limited relevance. A further consequence would be likely to be additional work for the staff involved in the provision of these services, and, probably, for the database administrators responsible for the ‘data cleansing’.

4.2 ‘Ordinary residence’: Only those children who are ordinarily resident in England will have their details entered on the database. The definition of ordinary residence is not straightforward, but many highly vulnerable children, such as those who the victim of child trafficking, and unaccompanied asylum seeking children, may not fall within the definition. Indeed it is arguable that Victoria Climbié, in whose name this scheme is being developed, would not have been considered ‘ordinarily resident’ here. Duties of local authorities under the Children Act 1989 extend to children ‘in their area’ whether or not they are ordinarily resident there, and the provisions for the making of care orders in respect of children who have suffered significant harm allow for the possibility that a child may not be ordinarily resident in the area of any local authority. If the Database is thought to be a valuable child protection resource, it is hard to understand why its provision should not extend to some of the most vulnerable children in the country.

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This evidence is submitted on a corporate basis on behalf of the four charities listed.

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