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‘Children, non resident father’s and the public law: dilemmas
and challenges’

A paper by:

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for the International Conference:

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ABSTRACT

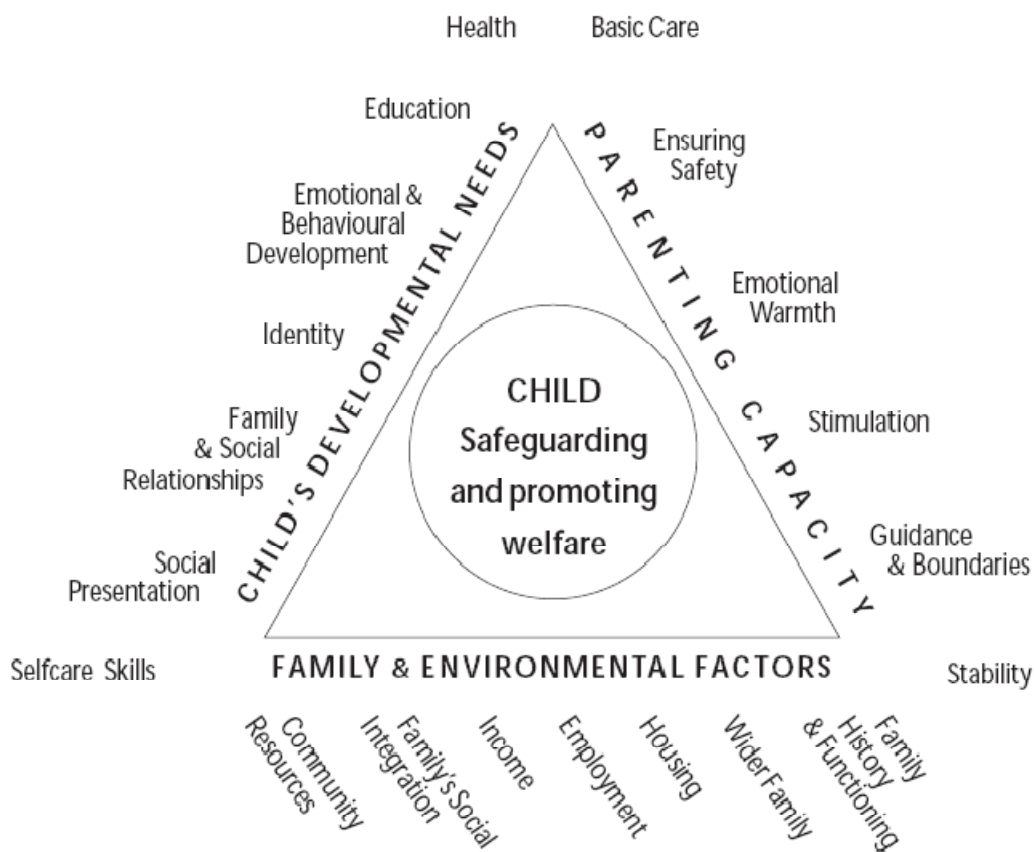
There are a significant number of family breakdowns in the UK that require the intervention of social welfare workers to ensure positive outcomes for the children who are at the centre of disagreement and animosity. Many of the situations will use the law to impose a solution when agreement between the adults is not otherwise forthcoming. There are frequent complaints from some fathers of inequity in social welfare practice and the law. This complaints are in part due to the contemporary nature of social welfare work and concomitant legal practice with families, for example because of uncritical approaches to assessment perpetuated by mandated tools such as the *Framework for Assessment of Children in Need and their Families* (DH, 2000), the *Common Assessment Framework* (2005) and the *Integrated Children's System* (2005). There are continuing concerns about the quality of assessments and that good practice in this regard is inhibited by managerialist and bureaucratic approaches and also because of imbalance between social welfare workers and their legal representatives.

One negative outcome of this, particularly for children in contested contact proceedings, is denied familial and cultural experiences and lost identity. Many non-resident parents are anonymous in practitioner's minds and records, not helped as many children's stories are reduced to a 'cut and paste' approach to assessment. Such anonymity means that possibilities offered by the non-resident parent's family, culture and community are denied and unavailable to the child. Practitioners worry about accountability both within and out with the courtroom and practice in an atmosphere of increased public hostility and scrutiny. Utility and professional agency are determined not just by statute but by working practices and culture, by knowledge and skills, and the prevailing social and political priorities of the day and this does not necessarily favour positive outcomes for children and non resident fathers. This paper is focussed on the legal aspects of such situations and it is argued that those working for better outcomes for children should pay closer attention to and take account of the impact of agency.

Glossary

Framework for Assessment of Children in Need their Families

Also known as the 'Assessment Framework' or the 'Framework' (both used throughout this paper) this ecological model of assessment is mandated and is therefore the foundation for most statutory social work practice in England. Based on a triangle the framework is implemented through a series of tools designed to take the practitioner through each of the identified areas before making a judgement about a child's needs. The framework is child centred and interdisciplinary in approach.



(DH, 2000: 17)

Common Assessment Framework (CAF)

CAF reinforces the inter-disciplinary nature of assessment in child welfare work and was introduced in the wake of concerns following the death of Victoria Climbié. It is a

shared assessment and planning framework for use across all children's services, not just social welfare work, and is focused on children with additional needs with the aim of early identification of needs. It is used to ensure effective inter agency working and communication in assessment and involves the use of a lead professional who may not be a social welfare worker. Like the Assessment Framework CAF utilises standardised recording tools.

Integrated Children's system (ICS)

ICS is based upon the dimensions of the Assessment Framework and as such is seen as 'an applied conceptual framework' for the assessment of children. In effect it is an electronic tool for recording and managing information from an assessment using the framework.

Introduction

The General Household Survey for 2007 undertaken by the UK Office for National Statistics shows that twenty-three percent of families with dependent children in the UK were lone parent families, of these twenty percent were lone mothers (ten percent categorised as single, six percent divorced and four percent separated) and three percent lone fathers. This constitutes six percent of the twenty four million, seven hundred thousand households in the UK or approximately one and a half million lone parent families with dependent children. In addition there are approximately seven hundred and fifty thousand step families with dependent children, eighty six percent or six hundred and forty five thousand of which have a child (ren) from the woman's previous relationship(s) (ONS, 2009).

Although it isn't possible to extrapolate from the ONS data the numbers of children and families for who contact is an issue some insight into contact arrangements and patterns is provided by a significant survey undertaken by Peacey and Hunt (2009) for Gingerbread, the UK charity for one parent families. Their research found that the majority of children whose parents have separated continue to live with their mother – conforming to the ONS data and previous findings, for example Trinder et al, 2002, 2005; Blackwell and Dawe, 2003 ONS, 2005; Cabinet Office/DCSF, 2008 - and that the majority of parents, seventy-one percent, reported face to face contact with the non resident parent. However a significant minority of parents, twenty-nine per cent, reported no current contact of which sixty-three percent of respondents claimed no contact whatsoever with the non resident parent since separation. A further six per cent said that the father was not aware of the child's existence (Peacey and Hunt, 2009, p.17). There are therefore a considerable number of families for who contact is an issue and it is more usually the non-resident father in these situations who does not have contact with his child(ren).

It is important to note that this does not assume that contact is being prevented by mothers as some fathers may choose not to exercise the contact available (Smart et al, 2005 cited by Peacey and Hunt, 2009, p.7). Nonetheless many fathers continue to complain that their contact with the child and the child's contact with the wider paternal family is obstructed (Bradshaw *et al*, 1999; Wikely, 2001) with the resident parent typically citing conflict with the non resident parent or concern for their own and/or the child's safety or welfare as the reason (Peacey and Hunt, 2009). Either of these contexts can lead to the involvement of social workers

with the family particularly if parental conflict is considered to be affecting the emotional well-being of the child (Frosch et al, 2000; Reynolds, 2001; Cummings et al, 2004) or significant harm is a consideration either through violence, drug or alcohol misuse or child abuse (Thoennes & Tjaden 1990; Penfold, 1995; Brown et al, 2000). Where there are concerns that a 'child is suffering or likely to suffer significant harm' (Children Act, 1989) a social work assessment is inevitable.

Despite considerable research indicating the benefits to children of father contact (see for example, Ryan, 2000; Lamb, 2002; Flouri, 2005; Fortin et al, 2006; Dunn, 2008) and significant policy developments urging the involvement of fathers (HM Government, 2004; Department for Education and Skills (DfES), 2006, 2007; Department for Children, Schools and families (DCSF), 2007; DCSF/Department of Health (DH) 2008) there are significant levels of non resident father dissatisfaction with social work intervention (Daniel and Taylor, 1999; Featherstone, 2003, Ashley et al, 2006). Details of fathers and the wider paternal family are not always fully recorded by practitioners or information may be minimal or not easily accessible, fathers are not consistently consulted during routine assessments nor invited to meetings although this improves in child protection situations or when there is the possibility of the child being looked after by the local authority (Ashley et al, 2006; Roskill et al, 2008).

Several noteworthy barriers to engagement with fathers were raised by Page et al (2008) in a report to the DCSF, these included;

- worker gender, many men find it difficult to communicate with a predominately female workforce,
- lack of time or resources to identify non-resident parents, if the resident mother refused to discuss the father's identity or whereabouts this would only be pursued by workers in the event of a safeguarding concern or the possibility of the child being looked after by the local authority,
- fear of aggression or violence and a lack of training in dealing with this,
- Stereotypes of fathers and mothers leading to negative views of father's as carers.

For a number of practitioners 'father engagement was unimportant and practice was orientated towards the most accessible parent, the mother' (Page et al, 2008, pp. 88-89). This correlates with Scourfield's (2003) findings of negative practitioner attitudes

about men including men being seen as a threat, of no use, irrelevant, as absent and dead-beat. More recently Ashley (2008) provides numerous examples where fathers have been treated less favourably to mothers, where their involvement has been minimised, where they have been excluded and their rights ignored. Professional agency favours utility and expediency over rights as a result of which opportunities are being lost to consider the full range strengths and resources available to the child through the direct involvement of the father and importantly the father's wider family with the potential for loss of identity and cultural mores.

That practice with fathers can have such negative outcomes raises questions about the objectivity afforded by the law and the legally mandated 'Framework for the Assessment of Children in Need and their Families' (Macdonald, 2001; Horwath, 2002) and the nature of social welfare intervention, in particular of assessment practice, and ultimately the efficacy of the Framework which after all requires practitioners to engage with 'each parent or caregiver' (DH, 2000, para 2.11, page 20) including 'fathers and father figures' (para. 2.12, page 20). Although there is some evidence that the Framework has achieved some of its aims including greater partnership with parents and carers (Cleaver and Walker, 2004) and when used skilfully it can have (in the broadest sense of the term) a therapeutic impact (Millar and Corby, 2006) questions remain whether the perceived benefits are as a result of routinised, behaviourist practice or through a genuine development in the understanding, values, ethics and professionalism of practitioners in developing inclusive practice? (Reid, 2007). These questions also arise because the framework can be used subjectively by professionals with some groups of service user with one aspect of the triangular arrangement being weighted either positively or negatively in certain circumstances, potentially for example favouring assessment of the parenting capacity afforded by a resident mother over that of the non resident father particularly if significant harm is a concern.

Assessment is much more than a cerebral process and it can be reactive to external demands (Horwath, 2007; Littlechild and Reid, 2007; Gilligan and Manby, 2008). Practitioner views of the framework of assessment... and the accompanying Integrated Children's System include criticism of the temporal dimension of assessments, repetition and information being gathered because the system requires it, a cut and paste approach to recording that prevents a holistic view of the child and family and a high blame working environment (Munro, 2005; Bell et al,

2007; Broadhurst et al, 2009). Emotions and prejudices can affect assessments, for example, fear of certain fathers (Smith and Nursten, 1998), where practitioners have beliefs that mothers provide better care than fathers, or where the availability heuristic - the tendency of people to take into account over other potentially relevant issues, those matters which are called to mind most readily within a situation - has influence (Middleton et al, 1999; O'Connor et al, 2006). Fear and the prevailing culture of blame both through the popular media and in the system of inspection and regulation of social welfare practice (Sue White, pers. comm.) are also relevant as is an approach to supervision that continues to focus on managerialist and bureaucratic requirements above others (Marsh and Triseliotis, 1996; Bradley and Hojer, 2009).

Such external demands also have an impact on the workers interaction with the legal system and legal processes. It can be argued therefore that the current framework and accompanying structures are insufficient for taking into account the range of issues relevant to an assessment and although the focus of this paper is on non resident fathers the discussion is relevant to all service users.

Considerations of Approach

The incentive to consider social welfare workers assessments of inclusive practice with fathers came from teaching and interacting with students undertaking post qualification learning. Colleagues and I were increasingly aware of recurring messages in student written and verbal reports of difficulties in engaging with and involving some fathers in assessment. Anecdotally students were confirming previous findings in the literature of fathers being absent or marginalised and as a result the opportunities afforded by fathers and wider family networks were being minimised. A significant minority of practitioners had not considered the issue of paternal normalities and culture particularly if the father was unknown, absent, difficult to work with or a risk to the child. It appeared that the rights of some fathers and children to contact were being negated despite the 'ecological' construction of the Framework for Assessment and the inclusive intentions of the Common Assessment Framework.

Consideration was therefore given to exploring practitioners approach to assessment involving situations where contact was an issue and to their understanding of fathers' rights to contact and what might impact upon realisation of

those rights and subsequently the child's paternal identity and culture. A case-study (appendix one), based on an actual situation, was used to develop discussion and insight. A number of practitioners (n=45) undertaking programmes of post qualification training or learning agreed to participate in a thematic analysis of social welfare practice centred on the case study and based on their own practice experience.

A narrative approach enables the social welfare practitioner to talk individually or in groups and write of practice in the context of social, cultural and institutional influences (Gergen and Gergen, 1986; Wertsch, 1991 cited in Moen, 2006, p.59), to give voice to each participant and to the influences that shape practice. The approach fits with the demands placed on practitioners undertaking post qualification learning to critically reflect upon and discuss practice and with the narrative tradition of social welfare work. A thematic method is useful for seeking common themes across a number of participants and events.

The idea of dialogical praxis (based on Freire, 1996) was also drawn upon. Dialogical praxis includes the notion that consciousness is developed through dialogue that illuminates both the personal and political and thus the structures and discourses that perpetuate oppression. Dialogue is key and the researcher and participant are seen as having different but equivalent wisdom (Ife, 2001, p.151). The participants worked primarily within five unitary authorities, four of which had a shared history as a larger metropolitan body. Participants from these four took part in discussions as mixed groups. The fifth was geographically distant from the others which allowed for more reliable data.

The emerging themes resonated with the contemporary literature into statutory social welfare practice with fathers. Those with a legal theme are discussed below.

Synopsis of Findings

The majority of the participants (over seventy percent in each group) began by focussing on the concern for harm suggested in the case study and indicated an approach to their assessment that concentrated solely on this. As such many of the participants rely on the presenting information without seeking to enquire into the family's history thus focussing on the child's needs as identified by the resident mother rather than on a broader needs assessment. The remaining participants did

consider the maintenance of contact with dad to be a priority but of these only three held the potential for contact to involve the wider paternal family at this early stage. Utility and agency led the participants to use the law narrowly and many were not conversant with the applicable duties and responsibilities to involve fathers. Reference to case law was also absent.

Analysis in assessment is also revealed as narrowly focussed as the participants rely on practice wisdom and intuitive reasoning to dictate the assessment strategy, only five participants developed a strategy that included a number of hypotheses, for example the impact of loss, in addition to that of the impact of harm. The participants did not explicitly identify the empirical evidence that they rely on in developing their analysis, underpinning their reliance on intuitive reasoning. Practice wisdom is also supported in the guise of advice from legal representatives and by their peers and managers, for the latter of which it is assumed also have gaps in legal knowledge.

The main issues with a legal bearing arising from the case study are explored further below.

Qualified Rights – the ‘normal chaos of family law’ (Dewar, 1998)

It is no surprise that legislation is identified as a theme given its centrality to statutory practice and the ongoing struggle between partnership, rights, empowerment and accountability in practice (Braye and Preston-Shoot, 1997; Shardlow, 1998). The practitioners believe that they have good knowledge of the law but acknowledge some anxiety in working with the law and legal processes.

This anxiety is partly developed out of perceived conflicts and contradictions within the law, for example, s1 of the Children Act 1989 asserts that the welfare of the child is paramount but Article 3 of the UN Convention of the Rights of the Child expresses welfare as a ‘primary’ consideration. Whilst there is a duty to assess a child who is suffering or likely to suffer significant harm under s47 of the Children Act 1989 there is not similar statutory duty associated with children in need under s17 of that Act. A father has to do something to gain parental responsibility, a mother does not. Need and the rights of fathers, including the need and right for contact between a child and father therefore, lose emphasis. These are further undermined because of the qualifications in other national statute an international treaties, for example,

The Human Rights Act 1998 confirms into UK law the European Convention of Human Rights and Fundamental Freedoms (ECHR), Article 8 of which declares that:

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

However the conditions set out in Article 8(2) mean that the right is qualified and not absolute:

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Such qualification is also a feature of Article 9(3) of the UNCRC which declares that:

States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Contact is understood by practitioners therefore as a qualified right with such qualifications within their remit to define.

However, whilst practitioners believe they have a good understanding of the law, and at a surface level they do, there is a significant decline in law knowledge not regularly used in practice (Preston-Shoot et al, 1997). Even when discussing the peculiarities of more often used statute, for example, s47 or s17 Children Act 1989 (HM Government, 1989) there is consistent inability to cite these sections verbatim and variation in understanding and interpretation of the relevant central concepts of 'significant harm' (s47) and 'need' (s17). Whilst some of this is due to the policies and thresholds of particular agencies, and it can be agreed that these are not fixed concepts, it was interesting that none of the practitioners regularly kept their legal knowledge up to date as an essential requirement of the social welfare role and therefore do not as a matter of course refer to case law but instead relied on lawyers for guidance and direction.

This is in part a consequence of the deemed expertise of the lawyers but also of the prevailing environment of risk aversion, practice scrutiny and regulation. In the

pursuit of error free practice expertise the practitioners do not believe themselves to be adequately informed to instruct or enter into a debate with legal representatives with power subsequently vested in these representatives. This introduces an element of utility and agency into the decision-making process as local authority legal representatives have a dual but contradictory role – to advise the practitioner but also to protect the interests of the agency (Dickens; 2004, 2006). These lawyers are also impacted upon by their own experience, values and stereotypes. The relationship between practice and law, and the extent to which practice is shaped and determined by legal frameworks (Braye et al, 2005) remains contentious. When working with any family social welfare workers have a responsibility to come to a balanced decision taking into consideration the rights of the child, the rights of others, including parents, and the impact of agency because of their position and role, including their own powers to intervene and the broader welfare issues (Parker, 1992; Eekelaar, 1994, Henricson and Bainham, 2005). This is a difficult balance to achieve as the factors facing the practitioner extend beyond the ‘normal chaos of family law’ (Dewar, 1998, p.467). Practitioners worry about accountability both within and outwith the courtroom and practice in an atmosphere of increased public hostility and scrutiny. Agency is determined not just by statute but by working practices and culture, by knowledge and skills, and the prevailing social and political priorities of the day and this does not necessarily favour positive outcomes for fathers. The tension between the Children Act 1989 and the wider rights legislation remains unresolved despite continued suggestions of the need for review (Reece, 1996; Herring, 1999; Eekelaar, 2002, Ashley et al, 2006). Practitioners are conscious of public vilification and attitudes that they themselves are a risk to society and they emphasise the knowledge, expertise and experience of lawyers and underemphasise their own. In this environment agency is accentuated over rights and this can be particularly illustrated in consideration of the concept of parental responsibility (PR).

Interpreting Rights - parental responsibility yes, but...

Parental Responsibility (PR) is

all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.

(section 3(1) Children Act 1989)

It is automatically attained by mothers but, at the introduction of the Act, by fathers only if married to the mother at the time of the child's birth. This was later amended in December 2003 to include unmarried fathers as long as their name appears on the birth certificate at registration.

PR can also be attained by a father if he obtains the agreement of those who already hold PR or by court order, in effect a father has to do something to attain PR. Mothers always attain PR, unmarried fathers do not.

This and other discrepancies, such as s52(9) of the Adoption and Children Act 2002 (ACA) which allows that a father without PR is deemed to have consented to the placement even if he later obtains PR and objects, mean that PR is a contested if not nebulous concept, as Evans and Harris (2004, p. 885) when citing Handler (1973, p.138) point out:

...rules, even though we often think of them as unambiguous, can contribute to the uncertainty that creates discretion. He (Handler) noted the imprecision of statute law and the inability of policy makers to make clear rules stemming from statutes. Instead, law and policy are expressed in vague phrases, which are open to interpretation, and this creates wide discretion for the interpretation or generation of policy in the absence of guidance from managers.

Knowledge and understanding of the law have a role in practitioners' decision making in relation to PR but the social welfare workers in this study again indicated that they did not systematically enter into debate or actively seek out case law. As a consequence interpretation of the rights and rules pertaining to PR were influenced by practice wisdom and the prevailing working climate.

This brings into consideration the views of Lipsky (1980) concerning 'street – level bureaucrats' and their willingness and ability to make ad hoc decisions based on their own needs rather than those of the client. According to Lipsky more power afforded to the practitioner leads to broad interpretation of policy and objectives, interpretation in turn emphasises utility. Evans and Howe (2004) provide a useful critique of those who argue that discretion has been curtailed by the introduction of managerialism through the increased use of rules and regulations but also point to Dworkin's (1978) typology that includes the possibility of 'weaker' discretion or the

ability of the practitioner to interpret within the rules. In discussion the social welfare workers reported a primary concern to adhere to the laws, rules and regulations that define PR but the propensity to interpret within those rules in light of the prevailing practice context the outcome of which is that the 'rights, powers and authority' enshrined in the definition of PR are underemphasised in favour of the 'duties and responsibilities'. As such PR may come to mean parenting capacity as enshrined by the Framework for Assessment (DH, 2000):

While the Children Act 1989 does make reference to parental responsibility, when more fully analysed it is described as capacity – perhaps reflecting the personal relationship and sometimes fluid and externally determined element of the parenting role. It also suggests a hint of something inherent, over which the parent does not have complete control. (Henricson, 2003, p.44).

Concern about the quality of practitioner assessment of parenting capacity have been previously raised (Budd et al, 2001; Conley, 2003) including questions about the focus and definitions used in such assessments. For example, Conley (page 16) considers parenting capacity to involve 'good enough' parenting over a sustained period. 'Parenting ability' however is the capacity to meet a child's needs over a short period or in specific circumstances. Stewart and Bond (2002) discuss the differences between parenting style and parenting practice and question the cultural relativity of some parenting assessments. Cultural relativity is problematic in that all competing views of the world are deemed to be equal (Littlechild and Reid, 2007).

Such definitions and variation in understanding of the concept of parenting are not systematically debated by the practitioners nor is guidance always available from managers in supervision despite 'definitional clarity' being fundamental to effective parenting capacity assessments (White, 2005, p.13). In addition there is also inconsistent use of the parenting assessment tools accompanying the Framework for Assessment and when they are used it appears that a tick box approach is adopted with little consideration to the relative nature of identified strengths or weaknesses (Donald & Jureidini, 2004). One further concern is, given social welfare workers reliance on legal opinion, the lack of information about lawyers understanding of parenting capacity and the impact of cultural relativity on their practice.

Summary

There are obvious limitations to this study. There were limited numbers of social welfare workers involved and involving the practitioners was opportunistic insofar as they were undertaking programmes of study or professional development, care should be exercised when generalising from such a sample. The exercise was exploratory and based upon a single case study rather than actual practice. The case study was also focussed on a particular situation at a particular time in the intervention.

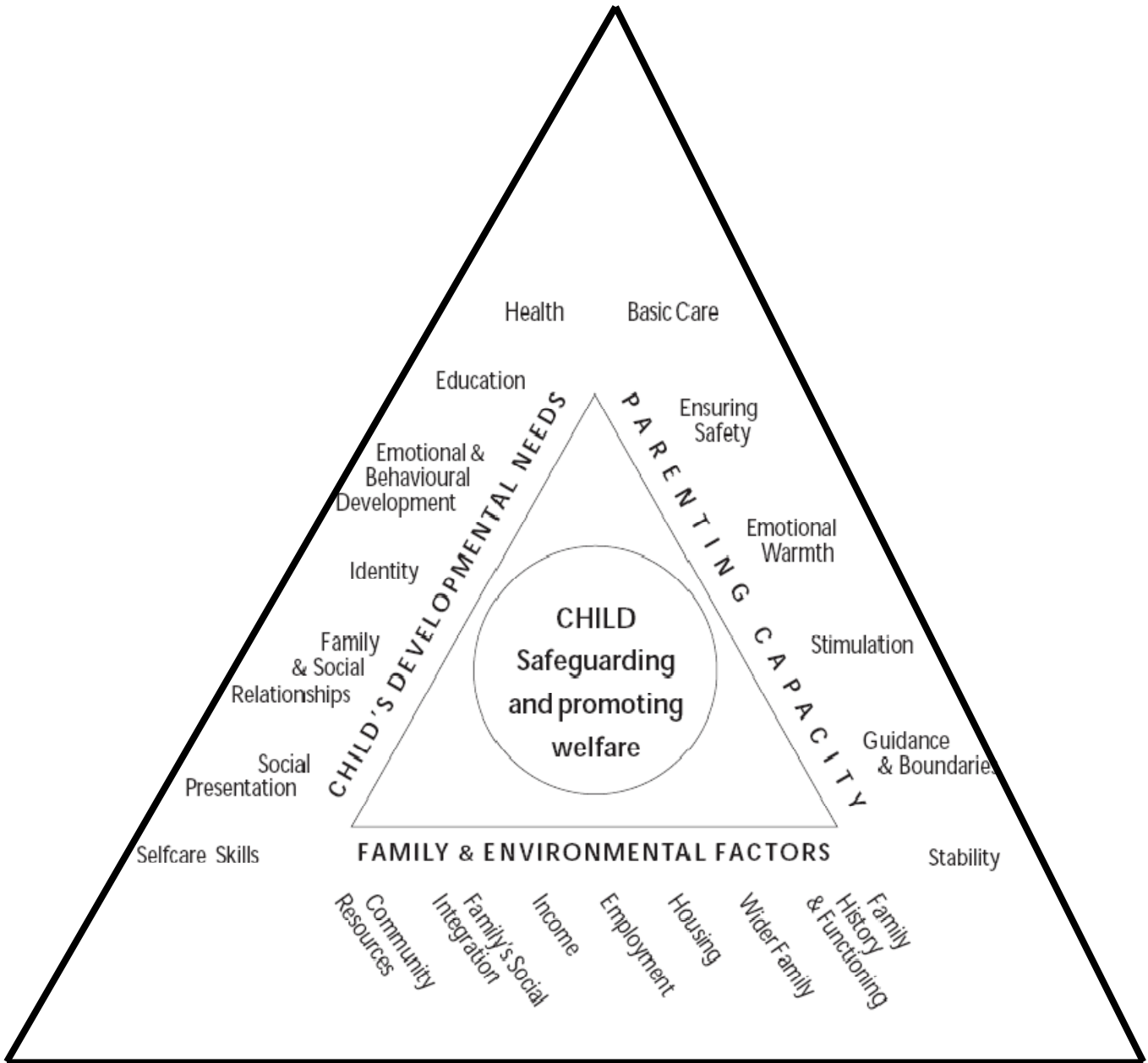
Despite the obvious limitations of the discussions the study does provide some useful insight into social welfare worker assessment and legal practice. There are some keenly held beliefs about the Framework for Assessment, the Integrated Children's System and some fathers. The majority of social welfare workers are exceptionally hard working and concerned to uphold the values and ethics of social welfare work in the face of unremitting public and political scrutiny and a system of regulation that values bureaucratic outcomes above the integrity of the relationship within their work. The fact that many fathers remain dissatisfied with the interventions of social welfare workers suggests inadequacies in current practices and approaches including those for assessment. Whilst there are contributing factors that are beyond the immediate remit of individual practitioners to control, such as contradictions within the law, these factors are not being mediated by supervision and support of sufficient quality. It is notable that the Inquiries into tragic child deaths in England continue to highlight supervision as a concern. However not all of the factors effecting assessment practice are external to the worker and knowledge and understanding, practice wisdom, analytical capabilities and the self all impact upon practice. This applies to all professionals working with children and young people including social welfare workers and legal representatives. These factors are not recognised within the current framework suggesting the need for something different. Whilst social welfare workers appreciate the structure and ecological nature of the framework they continue to confuse the collection of data with the analysis and critical enquiry necessary for assessment which subsequently feeds into the legal context. There is error in assuming that following the guidance for the Framework for Assessment ensures a quality assessment (Crisp et al, 2007).

Since the introduction of the Framework for Assessment, the Integrated Children's System and the Common Assessment Framework practitioners have become increasingly concerned about the issue of time limits to complete assessments. This temporal dimension does not easily lead to inclusive assessments nor create a foundation for robust partnership (Bell et al, 2007; Broadhurst et al, 2009). Indeed this situation is exacerbated as social welfare workers continue to carry child protection caseloads up to twice the limit recommended by the Laming Inquiry into the death of Victoria Climbié (BBC, 2009).

The Assessment Framework emphasises the technical-rational approach of evidence based practice (Taylor and White, 2001; Horwath, 2007) but assumptions are made about the currency and relevance of the worker's evidence base and indeed of the worker's understanding of relevant theory and case law. The framework also assumes truthfulness on everyone's behalf and a level playing field in terms of knowledge, skills and competence (Littlechild and Reid, 2007). The question of balance between the autonomous professional and the mores and practices required as an employee or agent of the state is understated. Whilst the professional continues to exercise discretion within the rules it is clear that the professional autonomy of the social welfare worker has been affected by greater regulation and accountability. The argument is not that accountability is unwelcome but that the elements used to measure outcomes should recognise the complexities of the social welfare task. This includes the nature of the relationship between the social welfare worker and the legal representative and the currency of the worker's legal knowledge.

The outcome for the children described in the case study and anecdotally for other children too, is that insufficient priority is given to the benefits for the children of father contact and as a consequence the opportunities and benefits of the wider paternal family and importantly the social and cultural dimensions of identity are significantly diluted or lost. Simply because an outcome is legally possible does not mean that it is always in the best interests of the child. The utility and agency of the social welfare worker and the legal representatives involved impact upon outcomes. It is perhaps time to recognise that, for many children involved in legal proceedings, the current Framework for Assessment for Children and Need and their Families needs redrawing:

AGENCY



Culture

Social Structure

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Appendix One

Case study

Peter and Sarah had been married for five years before their relationship failed, they separated and subsequently divorced. There are two children, Sally (11), Sarah's child (Peter's stepchild), and Amy (5). At the time of the separation there was agreement that the children would live with their mother on the understanding that Peter would have frequent and unhindered contact, and this worked well for over a year. However on the first contact, following an argument between them, Sarah informed Peter that the children were ill and would not be coming to stay. Over the next year the relationship between Peter and Sarah continued to deteriorate with contact with the children being used as a weapon. Contact between the children and Peter was minimal or non-existent for months on end. Illness was a frequent reason cited and the children also missed periods off school. Peter applied for a contact order and proceedings began. Sarah refused contact during the proceedings, alleging that the children were being adversely affected by the stressful situation. The court eventually agreed a contact order and Peter saw the children again, but only briefly as Sarah made a serious allegation against him and an investigation began.

The previous social worker, a female colleague, found Peter's presentation and behaviour challenging. He has a physical presence and is articulate and knowledgeable about child development.

A version of this paper, titled **Challenges and Dilemmas Regarding Non-Resident Fathers in Public Law**, will appear in an anthology of the conference proceedings to be published by the University of Orebro during 2011.