

Children on the edge of care

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Introduction

This chapter looks how the Children Act is applied to three groups of children and young people: unaccompanied asylum seeking children, disabled children at residential special schools, and children who are privately fostered or who live with relatives rather than their birth parents. These groups of children may experience very different circumstances but, it will be argued, they have one thing in common: they have not been accorded the full protection of the Children Act in terms of either meeting their needs or protecting them from harm. The chapter provides a critical analysis of what we know about the circumstances of these groups of children, what their entitlements are under the Children Act, and how local authorities respond to their needs and entitlements.

The Children Act 1989 was the key mechanism for fulfilling the United Kingdom's responsibilities under the United Nations Convention on the Rights of the Child. Article 9 of the UN Convention recognises

children's rights to live with their parents, unless this is not in their best interests, while Article 18 commits governments to 'render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities'. These human rights are reflected in the requirement placed on local authorities by the Children Act to:

- a. safeguard and promote the welfare of children within their area who are in need; and
- b. so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.

Children Act, 1989, Section 17(1)

Section 17 defines children as being 'in need' if they are unlikely to experience 'a reasonable standard of health or development' without assistance, or if they are disabled.

Article 12 of the UN Convention on the Rights of the Child recognises the right of the child 'who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child'. The Children Act requires courts to have regard to 'the ascertainable wishes and feelings of the child' when making decisions about their care (Section 1(3)), and local authorities to 'ascertain the wishes and feelings' of children when providing them with care away from their families (Sections 20

(6), 22 (4) and (5). Guidance on the Act's implementation places great emphasis on involving children in both assessments of their needs and in any decisions that affect them.

The Children Act promoted caring for children away from home on a short-term basis as a means of working in partnership to support families to look after their children. 'Accommodation' is therefore intended to be a family support service. Article 25 of the UN Convention says that children who receive care outside their home have the right to all aspects of the placement being evaluated at regular intervals. The Children Act introduced the legal concept of 'looked after' to cover, not only those situations where the state has taken over parental responsibility (through a court order under Section 31 of the Act), but also those situations where local authorities provide short-term substitute care to assist families at times of crisis or when under stress. Regulations on placements give children an entitlement to a care plan and to regular reviews (in which they are required to be fully involved).

This chapter will argue that interpretations of when a child is 'looked after' has been more important in determining the way local authorities have responded to the needs of the three groups of children under discussion than the human rights promoted by the Children Act. Moreover, it will be argued, assumptions about the needs and circumstances of these children, together with pressure on local authority resources, have encouraged practice that is at

variance with both the specific terms of the Children Act and its wider intentions.

Unaccompanied asylum seeking children

In January 2001, a mapping exercise carried out by the British Association for Adoption and Fostering (BAAF) and the Refugee Council found 6,078 unaccompanied children and young people supported by English local authorities who were either seeking asylum or had been granted refugee status or exceptional leave to remain (Dennis and Kidane, 2001, Appendix 4). The second half of the 1990s saw an increase in the numbers of unaccompanied children and young people applying for refugee status – from 631 in 1996 to 3,469 in 2001 (Audit Commission, 2000, p.66; Heath and Hill, 2002, Table 2.3). There had been an 18 per cent decrease in the numbers of unaccompanied children and young people seeking asylum in the year 2000 (from 3,349 to 2,733) but the year 2001 saw applications from unaccompanied asylum seekers rise again to 3,469.

The pattern of asylum seeking clearly reflects the changing situations in refugees' countries of origin. For example, a decrease in the numbers coming from the former republic of Yugoslavia (mainly Kosovo) was followed by an increase in the numbers coming from Afghanistan. About 80 per cent of those recognised as unaccompanied asylum seekers are 16 or 17 years old and most are male. The majority are supported by London local authorities, or by Kent or West Sussex County Councils (Audit Commission, 2000;

Dennis and Kidane, 2001). There is evidence that about 20% of children are placed out of the area by the local authority supporting them (Dennis and Kidane, 2001) but there are no national, comprehensive statistics on where children actually are (unless they have 'looked after' status, discussed below).

The majority of 16 and 17 year old unaccompanied asylum seekers are housed in either bed and breakfast accommodation or other privately rented property (Audit Commission, 2000). In contrast, the majority of under-16s are placed with foster parents or in children's homes although 12% are in bed and breakfast, hostels or hotel annexes (Audit Commission, 2000). Some young people are held in detention, usually because they are assumed to be adults and this is sometimes because they have had to travel on a false passport (Ayotte and Williamson, 2001).

Reports published by both Save the Children (Stanley 2001; Ayotte, 2000) and BAAF (Kidane, 2001a) contain powerful testimony of the (unsurprising) high levels of needs which exist amongst children and young people who have been separated from their families, flee from desperate circumstances and who arrive with little or no resources in a strange country. In spite of high levels of material and emotional needs, they frequently experience difficulties in getting access to mainstream education, are subject to bullying and racial harassment, are placed in poor standard accommodation, and receive little help in getting access to the support they need (Dennis, 2002). The placement of 16 and 17 year olds in unsupported housing, with adults

who are strangers to them, raises child protection concerns that are not always recognised or addressed. Research on both refugee experiences generally and on children's mental health and emotional needs indicate that refugee children and young people who are separated from their families are likely to experience significant psychological stress and threat to their emotional well-being.

The Audit Commission report, *Another Country*, published in 2000, concluded:

Many unaccompanied children have multiple needs because of their experiences of separation, loss and social dislocation. Their development may be accelerated in some areas and arrested in others, and they may need additional support to make the transition to adulthood (Audit Commission, 2000, p.66).

Unaccompanied asylum seekers and the Children Act

Article 20 of the UN Convention on the Rights of the Child states that: 'A child temporarily or permanently deprived of his or her family environment...shall be entitled to special protection and assistance provided by the state'. The British government recognises its responsibilities under this Article by accepting that children and young people, aged 17 and below, who have come to this country from abroad and are not accompanied by an adult who has responsibility for them, have the same legal entitlements as children who are British citizens. Once the unaccompanied asylum seeker turns 18 they lose their entitlements as children, and do not gain the same legal

entitlements as adult British citizens until they are granted refugee status or exceptional leave to remain (now 'discretionary leave to remain' or 'humanitarian protection'). There is one exception to this: where the young person has been recognised as 'looked after' within the terms of the Children Act 1989, they are entitled to various forms of continuing support from their local social services authority, under the Children (Leaving Care) Act 2000. Local authorities were only asked to distinguish unaccompanied asylum seekers amongst looked after children in 2002¹. In that year, a total of 2,200 children were recorded as being looked after because they were unaccompanied asylum seekers (Department of Health, 2003a).

There are thus three crucial criteria which determine the legal entitlements of young asylum seekers: their age; whether they are accompanied by an adult who has parental responsibility for them; and whether, through the support given by a social services authority, they are defined as 'looked after' within the terms of the Children Act. When the Social Services Inspectorate published a Practice Guide in 1995, it emphasised that asylum seeking children should be treated as children first (Social Services Inspectorate, 1995). However, the Audit Commission's study of how unaccompanied asylum seekers were treated by local authorities concluded, 'In many cases, they do not receive the same standard of care routinely afforded to indigenous children in need, even though their legal rights are identical' (Audit Commission, 2000, p. 66).

¹ The Children in Need Census recorded 'asylum seeking children' for the first time in 2001 but the 12,600 children in this category included those living with their families.

The Audit Commission's investigation found a number of local authorities believed that increasing numbers of young adults were claiming to be under 18 years of age in order to qualify for additional services under the Children Act. At the same time, local authorities have had financial incentives to treat claims with scepticism because of a shortfall between government grants and actual expenditure on unaccompanied asylum seekers (Audit Commission, 2000, p.67; Ayotte and Williamson, 2001, p.41). Together with a historical and continuing shortage of resources experienced by social services departments, this creates strong 'gatekeeping' pressures amongst local authorities. As one Team Manager responsible for duty assessments in an inner city area stated: 'The question for a local authority officer becomes 'is this family [or child/young person] eligible?' not 'is this child in need?' (Khan, 2002, p.2).

Even when a young person has been accepted as being unaccompanied and under 18, and has been provided with accommodation, some local authorities have often tried to avoid according them 'looked after' status. Since the passing of the Children Act there had been a widespread assumption that the definition of 'looked after' within the terms of the Children Act hinged on either the child being the subject of a care or supervision order (as a result of legal proceedings under Section 31 of the Act) or offered accommodation under Section 20 of the Act. The following quote from research commissioned by the Refugee Council and Save the Children reflects a common understanding of how many local

authorities applied their Children Act responsibilities towards unaccompanied asylum seekers:

The vast majority of 16-17 years olds are receiving services under section 17 of the Children Act, consisting primarily of housing and payments in cash, kind and vouchers. They are not therefore 'looked after' children, i.e. those who are accommodated under section 20 of the Children Act and benefit from a number of safeguards and provisions.

(Ayotte and Williamson, 2001, p.35).

In fact, until November 2002, the definition of 'looked after' was not determined by whether accommodation was provided under Section 20. Section 23 of the Children Act defined 'looked after' as any child who is:

- (a) in [local authority] care; or
- (b) provided with accommodation by the authority in the exercise of any functions (in particular those under this Act) which stand referred to their social services committee under the Local Authority Social Services Act 1970.

The same section then said "'accommodation" means accommodation which is provided for a continuous period of more than 24 hours'. There was no mention in this definition of the accommodation being provided under Section 20 of the Act.

When originally passed in 1989, therefore, the Children Act did not make a distinction between accommodation provided under Section 17 and that provided under Section 20, when defining a child as 'looked after'. The practice of many local authorities, however, was very different. Custom and practice grew up resting on the assumption that a distinction between accommodation offered under Section 17 and placements made under Section 20 was crucial to the role of local authorities and their responsibilities towards the children concerned.

Many local authorities have also acted on the assumption that their role and responsibilities towards 16 and 17 year olds are different from when the child is below 16 years of age. Again, this stance is not dictated by the Children Act but has its origins in assumptions that are made about the children and young people concerned and in the desire of local authorities to limit their responsibilities. The Children Act defines a 'child' as anyone up to their 18th birthday. Section 20 (1) requires local authorities to 'provide accommodation for any child in need within their area who appears to them to require accommodation as a result of:

- (a) there being no person who has parental responsibility for him;
- (b) his being lost or having been abandoned; or
- (c) the person who has been caring for him being prevented (whether or not permanently, or for whatever reason) from providing him with suitable accommodation or care.'

Moreover, Section 20 (3) requires local authorities to ‘provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation’. These reasons (under both Section 20 (1) and Section 20 (3)) would seem to be particularly applicable to young people who are seeking asylum in this country and who have become separated from their parents. However, many local authorities – by custom and practice – do not offer 16 and 17 year old separated asylum seekers accommodation under Section 20 of the Act. Instead, they provide accommodation using their powers to assist children in need under Section 17.

There were thus two assumptions underpinning local authorities’ practice towards unaccompanied asylum seekers, neither of which had any basis in the Children Act. However, following a series of judicial reviews (which did not relate to unaccompanied asylum-seeking children) that threw into question whether accommodation could in fact be provided under Section 17, the government amended the Act to allow for this. At the same time, they took the opportunity to amend the Act to the effect that a child provided with accommodation under Section 17 would not acquire ‘looked after’ status. Some local authorities welcomed this as it seemed to reduce their legal obligations towards unaccompanied asylum seeking children who they provided with accommodation under Section 17. Most significantly, it meant that the Children (Leaving Care) Act did

not apply to these young people so local authorities would not have to provide them with on-going support.

Nevertheless, those who seek to protect and promote the human rights of unaccompanied asylum seekers could still argue that Sections 20 (1) and (3) – as set out above - clearly apply to their circumstances and needs. They should therefore be offered accommodation under Section 20 and thereby acquire ‘looked after’ status – and the support which should go with it. Indeed, the government’s guidance on the amendment sets out quite clearly that ‘where a child has no parent or guardian in this country, perhaps because he has arrived alone seeking asylum, the presumption should be that he would fall within the scope of section 20 and become looked after...’ (Department of Health 2003b). The guidance also usefully stated that, before deciding which section of the Children Act provides the legal basis for the provision of support, local authorities should carry out an assessment of a child’s needs using the *Framework for the Assessment of Children in Need and their Families*. Anecdotal evidence indicates, however, that many local authorities remain reluctant to treat 16 and 17 year old unaccompanied asylum seekers as either ‘children in need’ or as ‘looked after’.

Unaccompanied asylum seekers and the Children (Leaving Care) Act

Like most young people who are separated from their family, unaccompanied asylum seekers are likely to need continuing support as they grow into adulthood. Most young people need the support of

their families as they become young adults and few expect their parents to cease to give this support when they turn 18, let alone place them in bed and breakfast accommodation when they turn 16. The Children (Leaving Care) Act 2000 was a recognition of all the research and campaigning which argued that young people whose parents had been unable, for whatever reason, to care for them properly should not be effectively thrown out by the corporate parent at the age of 16 and expected to fend for themselves. Yet many young refugees – whose childhood experiences are likely to mean increased needs for support – are expected to manage with minimal support at the age of 16 and with no support once when they reach 18.

If a young person has received services under Section 20 of the Children Act, and their looked after status is recognised, then the local authority will continue to have responsibilities for their welfare under the Children (Leaving Care) Act. This makes the interpretation of the Children Act about when a child is ‘looked after’ even more significant.

Rights to family life and guardianship

There are two further aspects of the legal situation facing unaccompanied asylum seekers that undermine their human rights. The first relates to their right to a family life. Unaccompanied asylum seekers and refugees have no entitlement to reunification with their family in the UK. Immigration rules focus on spouses and dependent children; separated children may apply to bring their parents into the

country but this is entirely up to the discretion of the Home Office and is very unusual (Ayotte and Williamson, 2001, pp. 64-65). The government has opted out of a European Directive that would give children with refugee status the right to reunification with their families.

At the same time, the limited way in which local authorities tend to discharge their duties under the Children Act towards this group of children, particularly for 16 and 17 year olds, means that there is often no-one who has parental responsibility for them. It is unusual for a social services department to acquire parental responsibility for an unaccompanied refugee and the United Kingdom government has not implemented the 1997 EU Council Resolution which calls on Member States to provide legal guardianship or representation by a national organisation responsible for the care of the child. As the Refugee Council has pointed out, 'there are no mechanisms in the UK that provide for an independent, legally empowered individual who ensures that a separated child's entitlements are respected and their needs met' (Ayotte and Williamson, 2001, p.67).

In the early 1990s, organisations representing the interests of child refugees argued for a statutory service to assist children separated from their families. Instead of this, the Refugee Council's Panel of Advisors was set up on a non-statutory basis and, in 2001, was reported to be so overwhelmed with referrals that the majority were not allocated (Ayotte and Williamson, 2001, p.66). There do not currently seem to be any intentions of following the Statement of

Good Practice recommended by the Separated Children in Europe Programme, which states: 'As soon as a separated child is identified a guardian or adviser should be appointed to advise and protect separated children in a long-term perspective. Their role is to ensure that decisions are made in the child's best interests, that a child has suitable care, education, health care and legal representation, to consult with children and provide a link between the child and service providers, to assist the child with family tracing and to contribute to a positive durable solution.' (Ayotte and Williamson, 2001, p.66)

An Audit Commission Briefing described good practice for unaccompanied asylum seeking children and young people as involving:

- A full assessment of the child's needs as soon as possible after arrival, plus regular review meetings
- A dedicated social services team for separated children
- Joint commissioning of accommodation possibly in partnership with voluntary sector organisations
- Promoting links with the refugee communities and development of social support networks
- Preparation for independence.

(Quoted by Ayotte and Williamson, 2001, p.37)

While the legal framework exists for all these recommendations to be delivered, a combination of unhelpful attitudes about the needs of

unaccompanied asylum seekers and pressure on local authorities' resources means there has been little progress towards fully protecting and promoting the human rights of this group of young people.

Disabled children at residential schools

Until very recently, the placement of disabled children at residential schools, funded by local education and/or health and social services authorities, was an area of public policy and expenditure characterised by a lack of knowledge and understanding. However, recent research (Morris, 1998b; Abbott et al, 2000, 2001) highlighted this as an important issue. The government gave a commitment in its national learning disability strategy to find out more about 'the numbers, characteristics and outcomes of disabled children in residential settings' (Department of Health 2001a) recognising that the majority of such children are in residential special schools. The Special Educational Needs Regional Partnerships have done some work on residential school placements (London Region SEN Partnership 2000; Clench 2002). However, there is still not a clear national picture about the numbers or needs of the children concerned.

Local education and social services authorities are not required to provide statistical information about numbers of children funded to attend residential special schools: indeed when research has attempted to find out how many children are placed by particular authorities at residential schools this information has proved difficult

to ascertain (Abbott et al, 2000; London Regional SEN Partnership, 2000). We know that there are about 6,600 children in maintained and non-maintained residential special schools and about 4,400 in independent residential special schools (Department for Education and Skills/Department of Health, 2003). Not all these children are disabled but analysis of one SEN Regional Partnership's out of authority placements indicates that about 60% have a primary SEN which means they are likely to come within the definition of 'disabled' (Clench 2002, p.5). Information about out-of-authority placements is now being gathered, on a voluntary basis, from all the SEN Regional Partnerships although, apart from information about children's ages and primary SEN, the emphasis is likely to be on the costs and funding responsibilities of such placements. In future, it should be possible to identify the numbers of children with Statements of SEN at residential schools, through the Pupil Level Annual School Census collected by the Department for Education and Skills, and this may provide some information about outcomes for the children concerned.

A range of other initiatives should have increased our knowledge about, not just the numbers, but also the needs of disabled children at residential schools. However, this group has remained invisible because those gathering the statistics have generally not had these children in mind when designing their methodologies. For example, the national survey of disabled children and adults, carried out by the Office of Population, Census and Surveys in the 1980s, did not separate out disabled children at residential schools (Gordon, Parker and Loughran, 2000). While the objective of 'arriving at a complete

picture of the number and circumstances of disabled children' was included in the first round of the government's Quality Protects initiative, almost all authorities acknowledged that baseline information was inadequate and – although improvements were made in subsequent years of Quality Protects – there was still inadequate information about disabled children at residential schools (Council for Disabled Children, 1999, 2000, 2003). The Department of Health's Children in Need census has not, so far, asked authorities to return information about disabled children accommodated in residential schools, neither do any of the other statistical returns required by the Department of Health.

We *do* know, however, that disabled children and young people are three times more likely than non-disabled children and young people to attend a residential educational establishment and that those with the most significant impairments are the most likely to go away to school or college (Hirst and Baldwin, 1994, p.19). Secondary analysis of the OPCS survey drew attention to the fact that most disabled children in residential settings have multiple impairments and 'challenging behaviour' (Gordon, et al, 2000). Research carried out by The Who Cares? Trust in the mid-1990s found anecdotal evidence that a small but growing number of children attending residential schools may be those with complex health care needs (Morris, 1998b).

A third of special residential schools in the directory *Special Schools in Britain* offer boarding places to children from the age of 5 (and a

handful of these from an even earlier age). Of the schools in this directory, 25% offer 48-52 week placements. However, there is no statistical information about how many disabled children of primary school age go to boarding school or how many are on 48-52 week placements. The Department for Education and Skills does not require local education authorities to provide this information and neither does the Department of Health require social services authorities to record or make such returns. Planned improvements in collecting statistics about the pupil population will address some but not all of these gaps in information.

Recent research carried out by the Norah Fry Research Centre (Abbott et al, 2000, 2001) found that children are placed at residential special schools for a range of reasons. Educational factors include the difficulties local schools have in meeting specific needs: this is particularly the case for children with a diagnosis of autistic spectrum disorder, and for Deaf children using British Sign Language. 'Social' factors include inadequate support for parents to continue caring for their child at home (Abbott et al, 2001, Chapter 2). This research concluded, however, that while professionals often tried to separate out 'social' and 'educational' factors when determining whether a residential school placement was necessary, parents tended to see a close connection between these two aspects of their children's lives and needs: 'The majority [of parents] spoke of a lack of understanding and support at school and at home, leading to their conclusion that a specialist residential setting was the only way of meeting their child's needs and those of their family.' (Ibid, p. 26)

This research also found that most children and young people would not have chosen to go away to school although many wanted to leave their old school because they were so unhappy there. All of those participating in the research experienced homesickness but most were positive about at least some aspects of their boarding school, particularly their friends. Parents would have welcomed more support from both education and social services in finding an appropriate school and in ensuring that their child was well cared for and that their educational needs were met.

Disabled children at residential special schools and the Children Act

The information that we *do* have about disabled children at residential special schools indicates that this is an area of public policy where the state may be failing to protect children's human rights. The research referred to above looked at the decision-making processes which lead to residential school placements and found that the professionals making the decisions usually had little opportunity to consider the needs of individual children, and that placements were not routinely or adequately reviewed. 'Both education and social services professionals admitted that they would rarely know if children were safe and happy....' (Abbott et al, 2001, p.113). Children were rarely consulted about their 'wishes and feelings' during the course of making placements or when reviews were carried out.

Uncertainty about the role and responsibilities of local authorities is one of the key stumbling blocks to ensuring that this group of children's welfare is protected and promoted. Local authorities' interpretation of 'looked after' status has implications for whether social services have any involvement in assessing and reviewing whether children's needs are being met while they are being cared for away from home. If a child in a residential school is recognised as 'accommodated' and 'looked after' within the terms of the Children Act then the social services department will have an on-going responsibility to ensure their needs are being met by the placement. The Norah Fry Research Centre research looked in some depth at how four local authorities in England treated residential school placements and found a range of different interpretations of responsibilities under the Children Act towards these children. These differing interpretations were found not only between local authorities but also within the same social services departments and indeed, sometimes, within the same social work team. Six main interpretations were found:

1. All children who are funded, or part funded, by social services to attend residential schools are treated as 'accommodated' and 'looked after'. 'We wanted to make sure they were part of the Children Act reviewing system. It isn't just the fact that they're a major expense, it's also to make clear these are cases for whom we have significant responsibility' (senior social services manager, quoted in Abbott et al, 2001, p.99).

2. Children at residential special schools are only treated as 'accommodated' and 'looked after' if the placement is for 52 weeks of the year.
3. 'A child is only "looked after" if they are away from home for more than 120 nights a year' (Social services Team Leader, quoted in Abbott et al, 2001, p.100) – this assumption stems from a misinterpretation of the regulations on short-term placements, which say that a series of such placements can be treated as one placement as long as the child is not away from home for more than 120 days in one year.
4. Children at residential schools are only 'looked after' if they are also the subject of a care order but those who are not are still, in practice, treated as 'accommodated'. 'When we started placing children in boarding schools we were concerned that no one was looking after these children, why weren't we treating them the same as other placements? So, we sought legal advice and were told that you don't have to regard them as "accommodated" children but you must visit them as if they are "accommodated" (Team Manager, quoted in Abbott et al, 2001, p.100).
5. Children at residential school are not treated as 'looked after' or 'accommodated' unless they are the subject of a care order. 'We don't treat any of ours as "looked after"...We thought we were treading on thin ice so we actually got counsel's opinion and I know the view is that we do not have to "accommodate" the children we've funded as "looked after"' (Senior manager, quoted by Abbott et al, 2001, pp. 100-101). This manager was in the same local authority as the Team Manager quoted in point 4

above and was referring to the same legal opinion. It should also be pointed out here that another local authority participating in the same research had also sought counsel's opinion and had received the advice that, if a placement was wholly or partly funded by social services then the child was 'accommodated' and 'looked after'.

6. Children at residential school, funded by social services, are "looked after" and "accommodated" but social services involvement varies according their assessment of parental involvement and capacity: 'When the parents are fully involved we are much less involved, which I think is right; it's not our role to take things over because it's a real shock for parents to realise that their child is being taken into care.' (Abbott et al, 2001, p.101).

This last statement illustrates how important the colloquial meaning of the term 'in care' is. Members of the public, and - it would seem - some professionals, link local authorities' responsibilities towards children with an image of a child who is 'in care' because their parents are unable to look after them properly or have abused them. The Children Act, however, tried to widen local authorities' responsibilities towards their local child population by introducing a requirement to support families where children were identified as being 'in need' under Section 17 of the Act (and if a child is disabled they are considered to be 'in need'). It also introduced the term 'looked after' to cover, not just those children for whom the local authority has taken parental responsibility as a result of a care order, but also those children who have been provided with accommodation

(including on a temporary and/or short-term basis) in order to meet their and their family's needs. It was intended that the words 'accommodated' and 'looked after', within the terms of the Children Act, would include situations where the local authority was working in partnership with parents to assist them in looking after their children. This followed many years of evidence that most children do better if they remain with their families, as long as the support that some families require is available. Providing somewhere for a child to stay on a temporary, short-term basis was seen as an important service promoting 'the upbringing of children by their families' (as required by Section 17 of the Act). This was a particularly important service for parents of disabled children, many of whom expressed a need for 'respite' from looking after their child. In contrast to 'accommodation' provided under Section 31 of the Children Act, there is nothing compulsory about this form of 'accommodation'. Nevertheless, such 'accommodated' children are still 'looked after' within the terms of Section 23 of the Children Act. To associate 'looked after' status with the colloquial meaning of 'in care', therefore, is entirely misleading.

The placement regulations which should be implemented when a child is 'accommodated' and 'looked after' require the local authority to carry out regular reviews, to write a care plan, and to ensure that the child's wishes and feelings are ascertained. The research referred to above found that, even when a child placed at a residential special school was recognised as 'looked after', social services departments did not always carry out these duties. Reasons

given were a shortage of social work time and expertise, particularly when placements were a long way away and/or children had significant communication and/or cognitive impairments. It also seemed to be rare for assessments or care plans to cover how parents could be assisted to maximise their child's experience of family life. Overall, there was little sense of local authorities acting in partnership with parents to maximise children's life chances.

We know from earlier research that disabled children who spend long periods of time away from their families are vulnerable to abuse: they are often physically and socially isolated, receive intimate care from large numbers of people, and their physical, communication and/or cognitive impairments can make disclosure of abuse difficult (Morris, 1999; Kennedy, 1996; Marchant and Cross, 1993). There is a particular need, therefore, for statutory agencies to work together with parents to ensure their children are safe while they are away from home.

The government has recognised the need for local authorities to use their powers under the Children Act to safeguard disabled children at residential schools. When asked for a definitive view on whether boarding school placements should be funded without the child being treated as looked after, the Department of Health responded that "Our view is that children should not normally be maintained in schools by social services departments unless they are looked after. This will ensure that their progress is regularly reviewed and their welfare safeguarded." (Platt, 2001) This view was reiterated in the

recent Local Authority Circular *Guidance on accommodating children in need and their families* (Department of Health, 2003).

However, this guidance did not cover the large numbers of disabled children at residential school who are not considered to come under Children Act responsibilities at all. Although social services departments have, in recent years, been more likely to jointly fund residential school placements, the majority of placements are still solely funded by local education authorities. Social services departments consider that they do not have any responsibilities towards these children, even though most of the children concerned are 'children in need' because they come under the Children Act's definition of 'disabled'. And local education authorities assume that they do not have any responsibility for the children's general welfare, even though the full implementation of the UN Convention would require all aspects of local (and central) government to take responsibility for protecting and promoting children's rights. Although education authorities *do* have responsibility for carrying out an annual review of the child's Statement of special educational need, it is common for this to be done merely by receiving a report from the school and unusual for the views of the child to be sought (Abbott et al, 2000, 2001).

As with unaccompanied asylum seeking children, the way in which the Children Act is being implemented for disabled children at residential schools has less to do with such children's actual entitlements under the legislation, or indeed their needs and

circumstances, and much more to do with custom and practice which has grown up over the years. The decision-making processes that lead to a residential school placement are dominated by arguments about resources. Boarding school placements are expensive and neither education nor social services authorities want this drain on their resources, particularly because such placements run counter to the philosophy of inclusion. This undoubtedly helps explain why it is unusual for the needs of individual children to play any part in the discussions at the resources panels where decisions are made. In spite of this general opposition, however, residential school placements continue to be made – usually because local education and support services cannot meet the needs of the child, and sometimes following a Special Educational Needs Tribunal ruling against the local education authority. Following such a decision, in the majority of cases there is very little monitoring of whether the placement is meeting the child’s needs or whether they are safe.

Privately fostered children and kinship foster care

Children who are privately fostered or cared for by relatives share with the previous two groups of children discussed in this paper a poor recognition of their entitlements under the Children Act. As is the case with disabled children at residential schools, there is very little reliable statistical data about how many children are placed with private foster carers or with relatives.

Private foster care

Under the terms of the Children Act 'private fostering' is a term applied to situations where a parent arranges for their child under the age of 16 (18 if disabled) to be cared for and provided with accommodation, for more than 28 days and nights, by someone who does not have parental responsibility for him/her and is not related to the child. It does not apply where a child is 'looked after' by a local authority and/or is accommodated in a residential setting. The legislation, guidance and regulations thus distinguish between children who are placed with foster carers by local authorities – either in pursuance of their duties under Section 31 of the Act or as part of the provision of family support services² – and children whose parents have entered into a private arrangement for someone else to look after their child.

The term 'private fostering' may give the impression that this is a private matter between parent and foster carer, and that the parent is responsible for deciding whether the private foster carer is looking after their child properly. In fact, although private foster carers are not required to be registered, the Children Act gave local authorities a clear responsibility to ensure that children placed by their parents in someone else's home are properly looked after. The Act requires both parent and private foster carer to give advance notice of a private fostering arrangement and places a duty on social services authorities to: visit the foster carer before the child arrives; visit six weekly during the first year of a placement and then every three

months; satisfy themselves that the child is being properly cared for (covering their needs relating to development, emotional well being, education, religion, culture, language and race, health, and physical care); inspect the accommodation and satisfy themselves as to its suitability; ascertain the child's wishes and feelings (Children Act 1989, Part IX; The Children (Private Arrangements for Fostering) Regulations 1991; The Children Act 1989 Guidance and Regulations, Volume 8).

Parents and the general public may think of such arrangements as a private matter; the legislation nevertheless makes them a public matter by giving local authorities a role in ensuring that children are well looked after. This, of course, is part of the way that the Children Act is a mechanism for protecting and promoting the human rights laid down in the UN Convention on the Right of the Child, rights which are accorded to all children, whatever their circumstances. Local child protection systems should also respond to any situation where a child is suffering abuse or neglect.

In practice, children who are privately fostered have usually not been accorded the statutory protection to which they are entitled. This is partly because there has been little attempt – at either a national or local level – to tell parents and prospective foster carers of their duties under the act to inform local authorities when a private arrangement is contemplated. The Department of Health concluded in 1994 that this requirement 'was virtually unknown to the general

² What would, by custom and practice, be called 'Section 20 placements'.

public' (Department of Health 1994) and there is little evidence that this situation has improved since then (Philpot, 2001). The government gave a commitment – following the 1997 report on safeguards for children in public care (Utting, 1997) - to increase awareness about the legislative framework concerning private fostering. This has been limited to a leaflet issued to local authority social services departments, aimed at raising the awareness of social workers about their statutory duties. In that leaflet, the Department of Health stated that 'It is estimated that about 10,000 children in England are privately fostered' and 'It is likely that more than 50% of private foster placements are not notified to local councils' (Department of Health, 2001b). However, these estimates would not appear to have any statistical basis and it is impossible to know how many children are privately fostered.

As with the other two groups of children under discussion in this chapter, there is evidence that children in private foster care may be vulnerable to abuse but that child protection systems are not always effective in responding to their needs. One local study of 100 privately fostered children in the London Borough of Lambeth found that 7% experienced physical or emotional abuse and 4% sexual abuse (quoted by Philpot, 2001, p.19). Terry Philpot's investigation found a number of instances of children who had been placed with private foster carers who, once they became adults, disclosed the abuse they suffered at the hands of their carers.

The legal definition of private fostering covers a wide range of circumstances:

- Children (mainly of West African or Chinese origin) whose parents are studying or working in this country and whose hours or location of work or study make it difficult for them to look after their children.
- Children at boarding school who live away from their parents in the school holidays, usually because their parents are abroad.
- Children and young people from abroad who come to study at language schools and are placed with 'host' families.
- Children from abroad on cultural exchanges.
- 'Backdoor' pre-adoption arrangements, usually involving children from other countries.
- Children and young people who live with friends after their family has moved, often so that they can continue at the same school/college to take exams.
- Young people who go to live with their boy/girlfriend's family, sometimes following a row at home.

It is generally thought that West African children make up the largest group of privately fostered children (although in some localities Chinese children, or children at language schools are the largest group) (Holman, 1973; McGrath, 2002). Terry Philpot's investigation and review of research identified a number of difficulties which can arise in these situations involving West African children:

- Different expectations are held by parents and foster carers: for example parents often think living with a white English family (especially in a rural area) will give their child access to a good education. Yet foster carers do not always place a high value on education.
- Most foster carers are white and there is substantial anecdotal evidence that many children's cultural needs are not met. When they return to their parents they may be estranged from them and their community of origin.
- Cases have been reported where children are passed from one foster carer to another and parents have lost contact with them.
- Sometimes foster carers – having looked after a child for some time – successfully apply to adopt the child and this is against the parents' wishes and intentions.

There are many references in the literature to West African cultural practices which are said to encourage private foster care. The saying 'It takes a village to raise a child' is cited as evidence that there is greater acceptance of private foster care than amongst the white English community. That this is not always the case, however, is indicated by recent research which found a rather different picture amongst West Africans in one London health authority area. A questionnaire was sent to 600 randomly selected African families with young children resident in City and Hackney health authority area. About a third responded and amongst these 29 (14%) had sent at least one of their children to a private foster carer. Only one of these

felt that foster care was a preferred option; the remainder would have preferred alternative suitable day care (Olusanya and Hodes, 2000).

Whatever the circumstances in which children are privately fostered, it is likely that a significant proportion of them would come under the Children Act definition of being 'in need'. It is also the case that local authorities have a duty to visit them and satisfy themselves they are well cared for. It is generally recognised, however, that these obligations are not being fulfilled.

Sir William Utting recommended that foster care arranged by parents (i.e. private foster care) should be subject to the same system of approval and registration applied to foster carers used by local authorities (Utting, 1997). The government rejected this recommendation but the arguments in favour of registration of private foster carers have intensified since the death of Victoria Climbié. Terry Philpot's investigation of private fostering, carried out for the British Association for Adoption and Fostering, was dedicated to the memory of Victoria and the concluding sentence of his report was: 'In 2001, Victoria Climbié, a privately fostered child, died tragically at the hands of her carer and her carer's partner' (Philpot, 2001, p.52).

In fact, until the police investigation following Victoria's death, it appeared to the local authorities with whom she was in contact that she was being cared for by a 'close relative', her aunt. While Victoria's parents had given her into the care of this woman in the belief that they were thereby securing her a better educational and

economic future, the 'aunt' was more probably motivated by the fact that Victoria was a passport to her own economic advantage, for example by the claiming of child benefit and social housing. In terms of labels, therefore, it is unclear whether 'private foster care', 'kinship care', 'child trafficking' or 'unaccompanied asylum seeker' would have been most appropriate. What *is* clear is that Victoria was a 'child in need' as defined by the Children Act and that the three social services departments with whom she was in contact had duties to her under Section 17 of the Act which they failed to fulfill. It is also clear that all three departments should have recognised and acted upon clear signs that Victoria was experiencing physical abuse and neglect (and possibly sexual abuse), but that they in fact failed to carry out the required child protection procedures. The biggest and most glaring failure, evident from all the evidence presented to the Inquiry, was the failure of almost all those involved to actually speak to Victoria and find out direct from her about her needs, wishes and feelings – again a clear requirement laid down by the Children Act. Victoria was thus denied two fundamental human rights which proper implementation of the Children Act would have delivered to her: a right to be consulted; and a right to be safe from harm.

Kinship care/friends and family care

Whereas public discussion about private fostering is often dominated by implicit, sometimes explicit, judgements about irresponsible parents who dump their children on strangers, kinship fostering is discussed in terms which conjure up a more cosy picture – for

example, of grandparents stepping in when a birth parent dies or is unable to look after their child. Researchers have drawn attention to the importance of kinship foster care. The Children Act encourages such placements but it would appear they are often not formally recognised or supported by social services authorities. Jane Rowe's study of long-term foster placements, published in 1984 'discovered' a significant number of kin placements – one in four of her total sample (Rowe et al, 1984). David Berridge concluded from his review of research on fostering that kinship care 'is a proven success' and 'it seems curious that such arrangements are not more common' (Berridge, 1997, pp. 78 and 26).

The National Foster Care Association, amongst others, has pointed to the wide variations in the way kinship care placements are treated by local authorities and how this influences the provision of financial and other support (Waterhouse, 1997). A common complaint amongst grandparents who take on the care of their grandchildren is that they are offered far less support, especially financial support, than foster carers formally registered with their local authority (Family Rights Group, 2001). Recent research, which looked at kinship foster care in one London local authority, found that there was confusion amongst social workers about their responsibilities when children were looked after by relatives, and at the same time a reluctance to properly support carers in this situation on the grounds that this might 'open the floodgates' (Broad et al, 2001).

It is not yet clear whether England will see the 'tremendous increase' in formally recognised kinship foster care that the United States has experienced in recent years (Scannapieco and Hegar, 1999, p.1). A number of reasons have been identified for this increase, some of which may apply to the English situation:

- it has only recently been fully recognised that 'the formal systems of substitute care' have not traditionally catered for African-American families and this is undoubtedly one reason for the relatively high levels of kinship foster care amongst this community (Scannapieco and Hegar, 1999, p. 22). These arrangements, which previously existed outside the formal child welfare system, are becoming more likely to be formally recognised and supported.
- a more positive professional attitude towards kinship foster care has been encouraged in recent years, partly because the limited availability of non-relative foster carers and partly because 'research has begun to portray kinship foster care as a much more attractive alternative than has previously been thought' (Greef, 1999, p. 36)
- some urban areas of the US 'have lost part of a generation in the young child-bearing years to crack cocaine and other drugs, the HIV/AIDS epidemic, and crime and prison' (Hegar, 1999b, p. 23). In these situations, it is common for grandparents, primarily grandmothers, to step in.

Research evidence in America and in Britain highlights that kinship foster care is associated with greater stability for the children concerned and better continuity in terms of family and cultural issues

than non-kin foster care (Berrick et al 1994; Rowe et al, 1984; Greef, 1999). However, there is also evidence that kinship foster carers are likely to experience greater economic difficulties and poorer accommodation than non-kin foster carers (Gebel, 1996; Ehrle and Green, 2002). Some social workers caution against too rosy a view of kinship foster care. As one experienced worker has written, kinship foster placements 'should only be made when it can be demonstrated that the placement is a safe and positive choice. An over-reliance on the blood tie can leave children at risk of long-term significant harm or abuse. Naivety in child protection work is costly and it is children who will ultimately pay the price.' (Foulds, 1999, p.82) Waterhouse and Brocklesby caution that 'There is no reason to suppose that....kinship carers have any less need than other carers of skilled training and support'. Yet, as they argue, 'there is no consistency in policy or practice, or indeed body of knowledge or guidance upon which to base practice' (Waterhouse and Brocklesby, 1999, pp. 96-97).

It is already the case that local authorities are required to consider 'possibilities for a child to be cared for within the extended family' (The Children Act 1989 Guidance and Regulations, Volume 3, Family Placements). However, this consideration of kinship foster care is more likely to take place in the context of a formal recognition of concerns about parents' ability to look after their child and/or evidence of abuse or neglect. Not all situations where a relative steps in to look after a child warrant this kind of attention from the local authority. On the other hand, it is probably the case that many children experiencing separation from their birth parent – for whatever

reason and whether temporarily or not – come under the Children Act definition of being ‘in need’ as set out in Section 17 of the Act. This was certainly indicated by recent research which found that about half of relative carers were struggling to cope with difficult behaviour of the children and young people they were looking after, and most wanted more financial and social work support (Broad et al, 2001). Even if such arrangements were not part of the formal child care system in that the foster carers had been registered by the local authority and the children were recognised as formally ‘looked after’, such situations would warrant support from the local authority in the exercise of its duties under Section 17 of the Act.

A recent discussion paper on ‘friends and family care’ for the Department of Health recognises that ‘social services have tended to allocate resources based on the legal status rather than the needs of the child...’ arguing that, in contrast, eligibility for services should be ‘based on the needs of the child, not on the type of placement being considered ((Department of Health, 2002a, p. 10). The paper emphasises that family and friends ‘make a significant contribution to providing for the needs of children in a variety of circumstances’, and that local authorities should know more about the numbers involved and the type of support they require. A recent judicial review, ‘the Munby judgement’, established that it is unlawful for local authorities to treat ‘friends and family’ carers differently from ‘stranger carers’ in terms of payment and support (R (L) v Manchester City Council; R (R) v Manchester City Council). This judgement confirms that it is children’s and carers’ needs which should determine eligibility for

support, not whether the child is formally recognised as 'looked after' or not.

Conclusion

It is nothing new to say that local authorities have found it difficult to respond to the broad definition of 'in need' contained within Section 17 of the Children Act and to provide the family support services which the Act sought to promote. A summary of government commissioned research on the implementation of the Children Act concluded there had been three main problems:

- 'a failure to understand that duties in relation to section 17 are statutory
- a continuing emphasis on linking interpretations of 'in need' with eligibility criteria based on risk; and
- concern that moving to a broader definition of children in need, as the Act intended, would open the floodgates to a demand for services that could not be met.'

(Aldgate and Statham, 2001, pp. 22-23)

All these factors form the backdrop to the way social services departments have responded to the needs and circumstances of unaccompanied asylum seekers, disabled children at residential schools, and children who are privately fostered or placed with relatives. In addition, there have been misinterpretations of the statutory requirements placed on local authorities in respect of meeting the needs of these three groups of children. When resources are scarce relative to need, organisations and individual

workers are under pressure to restrict eligibility. Moreover, there are attitudes held about these groups of children that get in the way of acknowledging their needs and that sometimes prevent action being taken to protect them from harm. It is difficult to read the evidence presented to the Inquiry into the death of Victoria Climbié without coming away with the impression that some professionals did not value this child's life highly enough. Disabled children struggle daily with attitudes which do not value their lives as highly as those of non-disabled children, and a long-standing failure to recognise their vulnerability to abuse. Asylum seeking children, particularly the 16 and 17 year olds who make up the majority of this group, are often treated with suspicion at worst and at best are assumed to be too 'street wise' to need 'looking after'.

It is difficult to overestimate the significance of a shortage of resources. Evaluation of both family support services and child protection services has generally found that while the Children Act is a robust legal framework, in practice its implementation is sometimes inadequate. Poor practice on the ground is created by inadequate training and supervision, too few experienced workers, and poor management practice. All these factors are in turn created by a failure to target sufficient resources in an appropriate manner. In these circumstances, social workers and others look for ways to limit resources rather than for ways in which to meet children's needs. It is worrying that recent evidence indicates that, for a variety of reasons, local authorities are having to focus more on children in the greatest

need at the expense of more preventative support services (Department of Health, 2002b, p.21).

It is these pressures on resources which are, arguably, more important than any inadequacies in the existing statutory framework. There has, for example, been pressure for some time from voluntary organisations that private foster carers should be required to be approved and registered by the local authority. However, this is unlikely to be sufficient to protect the children in private foster care: local authorities already have quite clear duties to visit such children regularly and ensure their needs are met. They do not carry out these duties because a shortage of resources leads to the prioritising of groups of children whose needs are seen as being greater than those of children in private foster care.

As long as resources remain stretched, local authorities as organisations, and professionals as individuals, will always find reasons for not responding to need. Until social services' responsibilities towards children receive the same kind of financial and political support that health services and education have received from government – and from society at large – it will always be a struggle to meet childrens' needs and some children (including these three groups of children) will be particularly vulnerable to their needs falling off the agenda.

However, it would be naïve to think that sufficient resources to make a real difference to this situation are likely to be allocated to children's

services in the near future. In these circumstances, therefore, it is important to identify what opportunities do exist which might increase the likelihood of better meeting the needs of these three groups of children.

Perhaps the most important step would be to create more opportunities for the voices of these children to be heard by those who make decisions that effect their lives. The Quality Protects initiative enabled the direct experiences of children and young people to be heard at both governmental and local levels. We now need to focus more on the experiences of children who are commonly missing from these more general initiatives. The BAAF Refugee Children Project used their existing contacts with refugee children to find out about their experiences and to disseminate these more widely through their report *I did not choose to come here* (Kidane, 2001a). We need similar consultative exercises with unaccompanied asylum seeking children, disabled children at residential schools and privately fostered children. None of these groups of children and young people, for varying reasons, are likely to be involved in more general consultations with children and while their voices remain unheard they are not only being denied their human right to be consulted but their missing experiences allow ill informed assumptions to dominate policy and practice.

Another way of protecting children's human right to be heard and to be consulted is to ensure that, when assessments of their needs are carried out, they are fully involved in them. This means addressing

any barriers to such involvement. For example, many children placed at residential schools have high levels of cognitive and/or communication impairments and it is common for social workers to feel that they cannot ascertain such children's 'wishes and feelings' (Abbott et al 2001; Morris 1998b). Nevertheless, there are increasing examples where children with high levels of communication and/or cognitive impairments *are* consulted about their wishes, feelings and experiences (for example, Marchant et al, 1999; Triangle 1999; Triangle 2000; Triangle/NSPCC 2001). It should not be possible for any decision to be taken about how to meet a child's needs without there being clear evidence that information has been gathered about the child's perspective. This is already a requirement of both general assessment procedures as well as child protection procedures but the fact that this does not always happen means a lot more attention is needed to the detail of its implementation. For example, one chair of a Resources Panel in a county council social services department adopted a policy that no request for placement funding for disabled children would be heard unless the child's views were represented to the Panel. It will always be possible to find similar checks in existing systems and procedures which encourage good practice.

Another important step would be to ensure that the *Framework for Assessment of Children in Need and their Families* is used by all public authorities in contact with these groups of children. The *Framework* was issued by the Department of Health, the Department for Education and Employment, and the Home Office and, the government emphasised, 'is intended to provide a valuable

foundation for policy and practice for *all* professionals and agencies who manage and provide services to children in need and their families' (Hutton, Clarke and Smith, 2000). All these three groups of children and young people would benefit from a clear lead being given by government that their circumstances mean they are likely to be children 'in need' and, as such, should be accorded proper assessment of their needs (using the *Framework for Assessment*). Unaccompanied asylum seekers are specifically mentioned in the *Framework for Assessment* (Department of Health, Department for Education and Employment, and the Home Office, 2000, p.48), which recommends the *Statement of Good Practice* issued by the Separated Children in Europe Programme. The government also endorsed a guide written by the British Association for Adoption and Fostering on assessing the needs of unaccompanied asylum seeking children (Kidane 2001b). A similar clear lead is required on assessing the needs of children placed with private foster carers and those who are being considered for a residential school placement.

Many of the more 'mainstream' initiatives concerning children and young people provide an opportunity to address the needs of these particular groups of children and young people. For example, Sure Start – with its focus on younger children and the important role of health visitors – provides a key opportunity for identifying children who are privately fostered. Connexions Personal Advisors have the potential to play an important role in addressing the needs of disabled young people at residential schools as they make the transition to adulthood. Unaccompanied asylum seekers need to benefit from the

promotion and strengthening of advocacy for children by the Children and Young People's Unit.

Both central and local government need to address how the experiences of these, relatively small, groups of children and young people can be measured against the government's various targets for children's services. For example, what evidence is there that unaccompanied asylum seeking children – whose experiences may create long-term mental health difficulties – are benefitting from the National Priorities Guidance Target, 'To improve provision of appropriate, high quality care and treatment for children and young people by building up locally-based Child and Adolescent Mental Health Services' resulting in 'a comprehensive assessment and, where indicated, a plan for treatment without a prolonged wait' (Department of Health, 1999, para. 3.5). And how will the interests of these groups of children and young people be represented and promoted within the forthcoming National Service Framework for Children?

All the research on transition to adulthood for young people whose lives have been disrupted by trauma, separation, abuse, neglect, or who are disabled, tells us that their need for support does not cease at the age of 16, or even 18. The Children (Leaving Care) Act recognises this. It is a great pity, therefore, that the recent amendment to the Children Act has the effect of limiting the responsibility of local authorities by creating a more restricted definition of children who are 'looked after', that is by formalising the

current custom and practice of not treating children accommodated under Section 17 of the Act as 'looked after'.

In a sense, though, to get into these legalistic arguments is to miss the entire point of the Children Act – which was to deliver the government's responsibilities under the UN Convention on the Rights of the Child. The fundamental characteristic of human rights is that they apply to everyone, regardless of where they come from, what their circumstances and background are, whether they are disabled or not, and whatever their race or religion. Those responsible for implementing the Children Act are responsible for delivering human rights. In this sense the Children Act was merely a means to an end and there is a danger that we lose sight of the end in arguments about means. Both central and local government need to focus on how it can be used to protect and promote the rights set out in the UN Convention on the Rights of the Child. Currently, however, a shortage of resources, and inadequate knowledge about the views and experiences of these three groups of children have resulted in a failure to recognise and promote their human rights.

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References

Abbott, D, Morris, J and Ward, L. (2001) *The Best Place to Be? Policy, practice and the experiences of residential school placements for disabled children*, York: Joseph Rowntree Foundation/York Publishing Services.

Abbott, D, Morris, J and Ward, L. (2000) *Disabled children and residential schools: A study of local authority policy and practice*. Bristol: Norah Fry Research Centre, University of Bristol.

African Family Advisory Service (1997) *Private Fostering: Development of policy and practice in three English local authorities*, London: Save the Children.

Aldgate, J. and Statham, J. (2001) *The Children Act Now: Messages from research*, London: The Stationery Office.

Audit Commission (2000) *Another Country: Implementing dispersal under the Immigration and Asylum Act 1999*, London: Audit Commission.

Ayotte, W. (2000) *Separated Children Coming to Western Europe: Why they travel and how they arrive*, Save the Children.

Ayotte, W and Williamson, L. (2001) *Separated Children in the United Kingdom: an overview of the current situation*, London: Refugee Council and Save the Children.

Barnardo's (2000) *Children First and Foremost*, London: Barnardo's.

Berrick, J.D, Barth, R.P, and Needell, B. (1994) 'A comparison of kinship foster homes and foster family homes: Implications for kinship foster care as family preservation' in *Children and Youth Services Review*, 16(2), pp. 33-64.

Berridge, D. (1997) *Foster Care: A research review*, Londn: HMSO.

Broad, B, Hayes, R and Rushforth, C. (2001) *Kith and Kin: Kinship care for vulnerable young people*, London: National Children's Bureau.

Children Act 1989 Guidance and Regulations, Vol. 6 Children with Disabilities, London: Department of Health.

Children Act 1989 Guidance and Regulations, Vol. 8 Private Fostering and Miscellaneous, London: Department of Health.

Clench, H. (2002) *Analysis of out LEA placements 2002*, South Central Regional Inclusion Partnership.

Council for Disabled Children. (1999) *Quality Protects: First Analysis of Management Action Plans with Reference to Disabled Children and Families*, London: Council for Disabled Children.

Council for Disabled Children. (2000) *Quality Protects: Second Analysis of Management Action Plans with Reference to Disabled Children and Families*, London: Council for Disabled Children.

Council for Disabled Children. 2003. *Analysis of the Quality Protects 2002 Management Action Plans: Services for disabled children and their families*, Council for Disabled Children.

Dennis, J. (2002) *A case for change: How refugee children in England are missing out*, London: Children's Society/Save the Children/Refugee Council.

Dennis, J. and Kidane, S. (2001) *Where are the children? A mapping exercise on numbers of unaccompanied asylum-seeking children in the UK*, London: BAAF/Refugee Council.

Department for Education and Skills/Department of Health (2003) *Disabled children in residential placements*, Unpublished.

Department of Health (2003a) *Children looked after in England: 2001/2002*, Department of Health.

Department of Health (2003b) *Guidance on accommodation children in need and their families*, LAC(2003)13, Department of Health.

Department of Health (2003c) *Transforming children's services: An evaluation of local responses to the Quality Protects Programme, Year 4*, Department of Health.

Department of Health (2002a) *Friends and Family Care (Kinship Care): Current Policy Framework, Issues and Options*, Department of Health. www.doh.gov.uk/choiceprotects/friends-family-paper-1nov02.pdf

Department of Health (2002b) *The Children Act Report 2001*, Department of Health.

Department of Health (2001a) *Valuing People: A New Strategy for Learning Disability for the 21st Century*. London: The Stationary Office.

Department of Health (2001b) *Private Fostering: A cause for concern*, London: Department of Health.

Department of Health (1999) *The government's objectives for Children's Social Services*, Department of Health.

Department of Health (1995) *Child Protection: Messages from Research*, London: HMSO.

Department of Health (1994) *Signposts: Findings from a national inspection of private fostering*, London: Department of Health.

Department of Health, Department for Education and Employment, and the Home Office (2000) *Framework for the Assessment of Children in Need and Their Families*, Department of Health.

Ehrle, J. and Green, R. (2002) 'Kin and Non-Kin Foster Care: Findings from a national survey' in *Children and Youth Services Review*, 24, pp. 15-35.

- Family Rights Group (2001) *Second Time Around – a survey of grandparents raising their grandchildren*, Family Rights Group.
- Foulds, J. (1999) 'Kinship fostering and child protection' in Greef, R. (ed) *Fostering Kinship: An international perspective on kinship foster care*, Aldershot: Arena.
- Gebel, T. (1996) 'Kinship care and non-relative family foster care: A comparison of caregiver attributes and attitudes' in *Child Welfare*, LXXV(1), pp. 7-18.
- Gordon, D., Parker, R., and Loughran, F. (2000) *Disabled children in Britain: a re-analysis of the OPCS disability surveys*. London: Stationery Office.
- Greef, R. (1999) 'Kinship Fostering: Research, policy and practice in England' in Greef, R. (ed) *Fostering Kinship: An international perspective on kinship foster care*, Aldershot: Arena.
- Heath, T., and Hill, R. (2002) *Asylum Statistics United Kingdom 2001*, London: Home Office.
- Hegar, R.L. (1999a) 'Kinship Foster Care: the new child placement paradigm' in Hegar and Scannapieco (eds) *Kinship Foster Care*, New York: Oxford University Press.
- Hegar, R.L. (1999b) 'The cultural roots of kinship care' in Hegar and Scannapieco (eds) *Kinship Foster Care*, New York: Oxford University Press.
- Hirst, Michael and Baldwin, Sally (1994) *Unequal Opportunities: Growing up disabled*, York: Social Policy Research Unit, University of York.
- Holman, R. (1973) *Trading in Children: A study of private fostering*, London: Routledge and Kegan Paul.
- Hutton, J., Clarke, C., and Smith, J. (2000) *Letter dated 4th April 2000 to accompany issuing of the Framework for the Assessment of Children in Need and their Families*.

Kennedy, M. (1996) 'Sexual abuse and disabled children', in Morris, J. (ed) *Encounters with Strangers: Feminism and disability*, London: The Women's Press.

Khan, R. (2002) *Submission to Victoria Climbié Inquiry Phase 2, Seminar 1.*

Kidane, S. (2001a) *I did not choose to come here: Listening to refugee children*, British Association for Adoption and Fostering.

Kidane, S. (2001b) *Food, Shelter and Half a Chance: Assessing the needs of unaccompanied asylum seeking and refugee children*, British Association for Adoption and Fostering.

Laming, H. (2003) *The Victoria Climbié Inquiry*, The Stationery Office.
www.victoria-climbié-inquiry.org.uk/

London Region SEN Partnership (2000) *Away from home: the price paid*, London: London SEN Regional Partnership.

Marchant, R. and Cross, M. (1993) 'Places of Safety: Institutions, disabled children and abuse' in *Abuse and Disabled Children: Reader accompanying Training and Resource Pack for Trainers in Child Protection and Disability*, London: NSPCC.

Marchant, R., Jones, M., Julyan, A. and Giles, A. 1999. *Listening on all channels: consulting with disabled children and young people*. Triangle: Brighton.

McGrath, B. (2002) *Paper on Discovery and Inclusion presented to Victoria Climbié Inquiry Phase 2.*

Morris, J. (2000) *Having Someone Who Cares? Barriers to change in the public care of children*, London: National Children's Bureau.

Morris, J. (1999) 'Disabled children, child protection systems and the Children Act', *Child Abuse Review*, Vol 8, pp. 91-108.

Morris, J. (1998a) *Still Missing? Vol. 1 The experiences of disabled children and young people living away from their families*, London: The Who Cares? Trust.

Morris, J. (1998b) *Still Missing? Vol. 2 Disabled children and the Children Act*, London: The Who Cares Trust.

Morris, J. (1995) *Gone Missing? Research and policy review on disabled children living away from their families*, London: Who Cares? Trust.

National Children's Bureau (2002) *Unaccompanied asylum-seeking children: Highlight No. 190*, London: National Children's Bureau.

Olusanya, B. and Hodes, D. (2000) 'West African children in private foster care in City and Hackney' in *Child Care Health and Development*, 26(4), pp. 337-42.

O'Neill, M. (1999) *Literature Review of Research on Offences of Sexual Exploitation*, London: Home Office.

Philpot, T. (2001) *A very private practice: An investigation in private fostering*, London: British Association for Adoption and Fostering.

Rowe, J, Cain, H, Hundleby, M and Keane, A (1984) *Long Term Foster Care*, London: Batsford.

Scannapieco, M. and Hegar, R.L. (1999) 'Kinship foster care in context' in Hegar and Scannapieco (eds) *Kinship Foster Care*, New York: Oxford University Press.

Separated Children in Europe Programme (1999) *Statement of Good Practice*.

Social Services Inspectorate (1995) *Unaccompanied asylum-seeking children: Practice guide and training pack*, Department of Health.

Stanley, K. (2001) *Cold Comfort: Young separated refugees in England*, London: Save the Children.

Triangle. 1999. *'Tomorrow I Go' What you told us about Dorset Road: Young People's views about a residential respite care service.*
Triangle: Brighton.

Triangle. 2000. *Quite like Home: Young people's views about residential respite care in Kent.* Triangle: Brighton.

Triangle/NSPCC. 2001. *Two Way Street* – training video and handbook on communicating with children who do not use speech or language. NSPCC: Leicester.

Utting, W. (1997) *People Like Us: The review of the safeguards of children living away from home*, London: Department of Health and the Welsh Office.

Waterhouse, S. (1997) *The Organisation of Fostering Services: A study of arrangements for delivery of fostering services by local authorities in England*, National Foster Care Association.

Waterhouse, S. and Brocklesby, E. (1999) 'Placement choice for children – giving more priority to kinship placements?' in Greef, R. (ed) *Fostering Kinship: An international perspective on kinship foster care*, Aldershot: Arena.