

ACTION ON RIGHTS FOR CHILDREN

THE CHILDREN BILL

Submission to the Joint Committee on Human Rights

The Children Bill currently before Parliament proposes radical changes to the way in which children's services are delivered in England and Wales. While we welcome in principle the intended appointment of a Children's Commissioner for England, it is the provisions of Part 2 that concern us.

Part 2 of the Bill proposes that confidential information about children and families be shared and stored on a database without their knowledge or consent. The Government appears to be seeking something of a 'blank cheque' from Parliament by asking that the Secretary of State be empowered to establish one or more databases, and to define issues of data storage and access, by Regulations and Guidance rather than by primary legislation.

The Green Paper '*Every Child Matters*' explained in detail how the system would operate: every child would have a central file, and a 'flag' would be placed upon it whenever an agency had a 'concern'. If two agencies flagged a file, this would be the trigger for sharing information in order to decide whether further intervention was necessary.

Although 'concern' is not defined in the Bill, the Government has made it clear that information-sharing should go far beyond the situation in which it is currently permitted: where a child is at risk of significant harm¹. It has so far been suggested that 'concerns' should, amongst others, include: seeming upset at school, failure to achieve expected levels at Key Stages, low birth-weight, or the mental health issues of a family member. It would appear that 'concerns' do not have to be backed by evidence

Clauses 6 & 7 would place a duty upon a wide range of agencies to co-operate with the Children's Services Authority (CSA), including Primary Care Trusts, Local Authorities, schools, and anyone providing services under s114 Learning and Skills Act 2000 - which includes private companies. **Clause 7** appears to refer to those to whom the CSA may delegate its functions, which further widens the potential number of people involved.

Clause 8 provides for the establishment of databases for the purpose of sharing information. Although the Government has said that it intends to establish 'local' databases containing only minimal information, the powers that it is in fact seeking could allow the establishment of one national database, and require that all agencies' files about a child be held upon it.

We are alarmed that The Secretary of State could be given such far-reaching powers without the detailed scrutiny and agreement of Parliament

Clause 8(7) purports to overturn any Common Law presumption of patient or client confidentiality. We fear that it could ultimately operate to abolish such confidentiality altogether.

We are concerned that, if every aspect of a child's life is potentially under Government scrutiny, this may in fact constitute destruction of the essence of his/her right to a private and family life, (Article 8 ECHR; Article 16 UNCRC)

Even if this is found not to be the case, the provisions of Clause 8 entail such a significant loss of private and family life that we cannot accept that they are a proportionate response to child protection concerns.

The Government has deflected criticism of the provisions of Part 2 of the Children Bill by asserting that the need for child protection outweighs any considerations of privacy.

Figures indicate that in a population of 10.5 million under-16sⁱⁱ in England and Wales, 27,670 (0.26%) children are on child protection registersⁱⁱⁱ. Even allowing that ten times that number of cases of abuse had not yet come to light, the figures suggest that the overwhelming majority of children are not suffering abuse. A major study published by the NSPCC in 2000 would appear to confirm this.^{iv}

We cannot, in any case, see how the Bill's provisions will do anything other than aggravate the current situation.

- ◆ *Widespread information sharing could compromise the safety of all children. The greater the number of agencies involved, the greater the risk of corrupt use or disclosure of children's data.*
- ◆ *Children already at risk of harm may be overlooked. It is likely that those working with children will tend to flag every minor concern rather than risk accusations of negligence. The system will be constantly delivering alerts for trivial issues; consequently, situations where intervention is urgently needed will tend to be obscured.*
- ◆ *There is currently a serious shortage of child protection social workers, and many Local Authorities are already fully stretched in coping with referrals. Increasing the potential workload to include issues that are not related to children's safety may bring the entire system to breaking point.*
- ◆ *As caseloads increase, there is a real danger of over-dependence on the computer system with an associated risk that the duty of care will, in practice, be given to the machinery.*

- ◆ *High levels of entries on the database increase the likelihood of human error when inputting data, impairing the accuracy of the records. As children and parents would not have the opportunity to correct mistakes, inaccuracies could lead either to time-wasting, unwarranted intervention, or to failure to identify a child at risk of harm.*
- ◆ *Government databases have a poor track record. Should the database become overloaded and fail, children in urgent need of protection may be missed entirely.*
- ◆ *Children may be reluctant to seek help or advice when they fear that their confidence will be breached.*
- ◆ *Parents may be deterred from seeking advice from GPs or other agencies for their own mental health or substance-abuse problems at an early stage, instead delaying requests for help until they are at crisis point. This could only aggravate problems within the family and increase the possibility of harm to children.*

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ARCH is a UK-wide network of families committed to the rights of children. Through its network, ARCH disseminates information to families, and gathers opinions on issues affecting children in order to represent them to policy-makers at both local and national level.

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ⁱ Department of Health: Data Protection Act 1998 Guidance to Social Services 2000

ⁱⁱ National Census 2001

ⁱⁱⁱ Table 7.21 *Children and young people on child protection registers* 31 March 2002 ONS

^{iv} *Child Maltreatment in the United Kingdom* NSPCC 2000