

Effects of the children act 1989



The Children Act 1989 has put in place a set of principles which are designed to ensure that children's needs in situations such as this are cared for appropriately. This means that children should be assessed speedily and have access to appropriate resources within the social services (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) 1-5). This legislation means that there are procedures in place for the assessment of the needs of children considered to be potentially at risk of various forms of abuse in the family setting.

The legislation quotes that this abuse may manifest itself as emotional, sexual and physical abuse or may take the form of neglect. The local authority is given the responsibility for monitoring whether these issues may be arising and where this is so, the social services must intervene and impose the best course of intervention as is necessary (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) 1-5).. Specifically, the legislation makes the following provisions:

' Prevention of neglect and abuse

4.—(1)Every local authority shall take reasonable steps, through the provision of services under Part III of this Act, to prevent children within their area suffering ill-treatment or neglect.....'.

Schedule Two of the Act makes the following provisions:

Part I, of Schedule Two of the Children's Act 1989 provides:

' Identification of children in need and provision of information

(1)Every local authority shall take reasonable steps to identify the extent to which there are children in need within their area.....’.

One

The most important assessment in this scenario is that of the social worker. The Children Act 1989 places duties upon the local authority to care for the children who are potentially at risk in this scenario (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) 1-5). To a large degree the position of the social worker is to discharge this duty. Broadly the issues which are presented by this scenario are relate to poverty, social exclusion, poor parenting skills, mental health as well as child support issues.

In this situation, each individual child’s needs must be assessed (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) Ch. 1-2). The child’s mother’s ability to respond to the children’s needs must also be assessed. In the situation described, the children appear to have been neglected, and poverty seems to be a prevalent factor in the continuing neglect. The mother’s description of her own feelings of being miserable and isolated suggest that perhaps there is an issue of mental health difficulties on the part of the mother and that perhaps she may be suffering from depression. Perhaps the most significant factor in this scenario is that there is no child support being received by the children’s father. This matter should be referred to the Child Support Agency who may be able to trace the children’s father and secure child support payments.

On a more positive note, the mother seems to be very cooperative and she has admitted that she is not coping appropriately. Due to this it is probably

possible to ensure that the children remain in the care of their mother with more support from the social services to assist her in coping with the challenges of parenting. The Children Act 1989 makes provision for what is referred to as an emergency protection order which means that the children can be placed under the immediate protection of the local authority.

However, given that the mother appears to be as cooperative as she is, there does not appear to be any need to consider such a drastic measure. A less serious measure which is potentially available to the social worker in this situation is the application for a care order. Such an order commits the children to the care of the local authority. Again, however, given that the problems which are resulting in the neglect of the children appear to be linked to issues which may be remedied with appropriate support and interventions on the part of the social worker (Cambridgeshire and Peterborough Mental Health Partnership NHS Trust (2006) 3) (Jones, I. and Williams, D. (2000) 1-2) (Scottish Executive (2006) 1), this option, while it could be under consideration for the future is unlikely to be acted upon without attempts being made at less invasive remedies.

An aim of the Children Act 1989 is to encourage what is referred to as a multi-agency approach (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) Ch. 1-2) to the problems which may be presented to individuals such as the mother in this scenario. It is likely that the health visitor, the local GP and perhaps some charitable organisations such as the Citizens Advice Bureau may be contacted to assist her mother. Certainly it appears that she may be entitled to more financial support from the social security agency, and if she were willing to attend the local CAB she may be able to

get a benefits check which is an assessment of the benefits which she may be entitled to.

Two

Peter's needs in this situation are paramount and the local authority are obliged to evaluate how much danger he may be in of being subjected to further abuse (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) Ch. 1-2). The care order which is in place means that Peter has been previously at risk of significant harm. If Peter is returned to the care of his family and suffers any further harm, there may be a case to be made that the local authority and the individuals involved in the assessment of his needs have acted negligently. A care order will usually last until the child is eighteen although applications may be made to the court to discharge care orders. The powers of the local authority, when a care order is in place are the same as parental responsibilities. This means that the local authority are allowed to make decisions about the welfare of the child, where the child lives and what is generally in the best interests of that child until the child reaches the age of majority.

Naturally, this situation brings a number of dilemmas to the fore. Some of these could include deciding whether it is in the best interests of Peter to be returned to his parents, deciding whether it is appropriate for Peter to be allowed contact with his father, and ultimately deciding whether Peter would be more damaged in the long term by separation from his parents or by being returned to his parents. Other dilemmas would include having the responsibility for separating a mother from her child. It appears that Peter's

mother is as much a victim in this situation as Peter is. However, the local authority have a duty to put the interests of Peter first.

Peter's father and mother may apply to the court at any time to have the care order revoked but in the circumstances it appears that they may have some difficulty in showing that they will be able to provide a secure environment for the child to return to. Peter admits that he is intimidated by his father and his father has just been released from prison. The plans which Peter's parents have to marry are a positive sign that they may be attempting to turn things around, however they would be required to show that Peter is no longer at significant risk and that they can maintain a secure home environment for Peter to be a part of. Peter's parents, and indeed Peter's father in particular would probably be entitled to have access to the child if Peter consents, but again the responsibility would be on them to show that such contact would be in Peter's best interests.

The Children's Act 1989 requires the local authority to put the welfare of the child first and in this scenario doing so would involve placing the onus on Peter's family to convince those caring for Peter and the court that they are in a position to care for him properly, and that they are likely to be able to sustain this for a considerable length of time.

Three

The Children's Act 1989 in this situation places a legal duty upon the local authority to ensure that the risks to which this child may be being exposed to are appropriately assessed (Beckett, C. and Maynard, A. (2005) Ch. 1) (Greene, R. (1999) Ch. 1-2). If it transpires that the child is at significant risk

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the local authority are required by law to intervene and remove the child from the situation which places them at risk.

Claire in this situation has bruising to her cheek, and this is likely to be considered to be extremely inappropriate because she sustained this injury at the hands of her father, who has admitted that it has happened before. Claire admits that she has been staying out late however, in the circumstances Claire's parents need to be in a position to care for her and to discipline her without resorting to physical violence. In circumstances where a child is in immediate danger, the social services can apply for an emergency protection order which enables them to take the child into protective care for a maximum of eight days. This is an option open to the social worker here, however in reality it is far more likely that a care order would potentially be applied for.

Before this happens, the social worker must consider whether the child may be able to be left in the care of her family, while being supported through appropriate channels and outside actors.

In this scenario, the parents seem to be having some difficulty both communicating with Claire and with disciplining her. Perhaps out of frustration, they have resorted to physical violence as an expression for their inability to do these things appropriately. The situation is exacerbated by the fact that Claire continues to stay out late without her parents' permission. The social worker in this situation should probably consider whether it is appropriate to make the option of family counselling available to the entire family, and Claire's opinion that she has had enough of being with her family

should be the cause of some concern. Perhaps, as a temporary measure Claire could be placed with other family members, thus putting her in a more neutral setting. Such a measure would give both parties some breathing space and time to evaluate a better solution to the problems, which does not involve physical violence to Claire.

The parents could also benefit from training in appropriate parenting skills which will enable them to discipline her more successfully. If Claire continues to be at risk of this violence occurring, it is likely that she would be considered to be at significant risk. In these circumstances, a child protection conference will be held and the social services will be responsible for coordinating an inter-agency plan to ensure that the child is cared for appropriately. This involves liaising with third parties to ensure that Claire gets all the assistance she needs. Perhaps Claire's teachers could be consulted to enquire whether this treatment is adversely affecting her education, and Claire may benefit from being referred to a counsellor on an individual basis.

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