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studies or reports of innovative practice. Letters and suggestions for book reviews and films, etc are also welcome.

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The Family Court Journal aims to provide a forum for sharing good practice and fostering debate about working with children and young people involved in family court proceedings and related matters. Submissions are welcome from anyone with an interest in the family justice system. The views expressed by contributing authors are not necessarily those of the Editor or the Editorial Board.

Notes for Contributors

Contributions will be reviewed in accordance with Editorial policy. Notes and guidance for contributors are available from the Editor.

We are looking for articles on research findings, analysis of policy or law, case

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Editorial – John Mallinson

Finding the right words at this time of year is never simple. With the holiday season upon us, it is hoped that regardless of faith, culture, or circumstances, there will be an opportunity to enjoy a few days of distraction, relaxation, rejuvenation and maybe meaningful reflection with friends, family and neighbours. But sadly, the reality can be very different. It can be a time for frustration and escalating tensions, disappointments and differences of opinion dominating the atmosphere behind closed doors. At such times, it is the children who suffer the most, another day spoilt and a nail-biting rollercoaster ride in anticipation of what comes next. Sadly, another year has passed with children in UK and in fact, around the world, enduring unimaginable hardship due to a range of reasons, impacting upon their development, safety and happiness.

In the Family Court Journal this time we start with an article that examines the dire situation of social work recruitment and retention. With increased workloads and dwindling workforces, it points to a perfect storm that could potentially spiral out of control and get worse, placing children and families at risk.

There is an interesting historical account of a time when organised schooling was just emerging for children in the UK and the steps taken to ensure those children attended and behaved themselves whilst in the classroom but learning about good moral codes and citizenship was considered equally as important alongside basic education.

There is a discussion about the Government's recent announcement to repeal the assumption of parental involvement with children. The proposed legislation is already in draft and will be progressed through Parliament when time

allows although not all lawyers and academics are convinced it is the answer.

Care-experience can sometimes conjure deep emotions and reflections in many formats, including poetry and sharing oral histories. An article entitled *Reclaiming Narrative* explores the ups and downs of this and shows how an exciting initiative can turn full circle and result in bitter disappointment.

The *Professional Notes* section has two pieces that link with practice, the second piece in particular continuing to reflect upon elements of the discussion regarding the proposed repeal of the presumption of contact.

The book review in this edition considers the overarching futuristic potential of genetic engineering and artificial intelligence as each element portrayed in the book interacts with human existence, seeking to embrace both emotional strengths and physical weaknesses.

Disappointingly, no *Letters to the Editor* have been received to date but this slot will remain open in the hope that there will be some inspiration and response from any source in 2026 and the communications will come flooding in.

There are two poems this time as they are short. Further submissions of poems from anyone, albeit preferably with some thread relating to children and family matters, are welcomed.

And the cartoonhinting at workload pressures, not enough time to get through all the tasks, and becoming detached from the ticking clock of reality.

Identifying the reasons for high attrition rates among social workers in England with some recommendations for effective strategies to alleviate high turnover rates:

Atifa Laeeqa

Low qualified social worker retention rates can have a negative impact on the delivery of social work practice, resulting in reduced quality. Insufficient staffing levels can lead to heavy workloads, diminishing the amount of time available to provide services to those in need and who are vulnerable, potentially preventing them from receiving the necessary attention.

This study is dedicated to uncovering the factors linked to the high attrition rates among social workers while touching upon the evolution of the social work profession. The chosen approach involves an extended literature review to present evidence on the challenges of retaining staff.

Evidence suggests that persistent pressures, such as excessive workloads, lack of support, and pay disparities faced by qualified social workers often results in early departure from the profession, leading to high turnover rates and perpetuating this critical issue. These challenges severely undermine the professions reputation and foster a toxic working culture, significantly impacting the wellbeing of workers.

Additionally, the study offers recommended strategies such as supporting and nurturing qualified social workers which can reduce

turnover rates and create a positive working culture. This can ultimately enhance the professions reputation and provide workers with a sense of security.

Social workers play a pivotal role through its dedicated workers, acting as a bridge amongst various healthcare professionals to improve the lives of the communities within the UK. However, professionals within the industry are leaving the field at an alarming rate, resulting in lower staff rates and a less efficient social work system. Due to the nature and significance of the profession, the issue needs immediate attention.

During the 1980's and 1990's, the government implemented neoliberalist policies, advocated for free-market capitalism, deregulation and privatisation, which led to significant changes in the field of social work in England. The focus of social work shifted from a natural and organic approach to a more practical and mechanical one. Social workers were increasingly tasked with meeting targets and goals, changing how they invested their time in their work. Focusing on achieving goals cost-effectively while meeting deadlines took precedence over evaluating the quality of professional practice and the decision-making process. With profitability as a prime goal, social workers were given less and less time to consider the consequences of their decisions, and monitoring those decisions also became less of a priority [Jones, 2001].

Continuity in social work is an essential element that significantly impacts the

quality of care and service user outcomes. The relationship between a service user and their social worker is often built on trust, understanding and consistency. A stable workforce ensures that clients receive continuous and consistent support which is vital for building therapeutic relationships and achieving long-term outcomes. A study by *Tham & Meagher* [2008] highlights how continuity of care is critical for effective social work practice.

Frequent turnover can disrupt the care process, causing stress and anxiety for clients who rely on stable support systems. Service users are more likely to engage and disclose personal information when they feel secure and trust their social worker. The importance of trust in the client-social worker relationship is discussed extensively by *Munson* [2002] in his work. He noted that the very basis of the social work profession is to carry out several assessments to ascertain the facts, and an essential element of the assessment is the ability to gain a service users trust. High staff turnover can undermine this trust, making it difficult for the service users to open-up.

A study by *Maslach, Schaufeli & Leiter* [2001] discusses the factors that influence burnout and how stable work environments can mitigate these effects; a stable work environment can help to reduce social worker burnout by providing a supportive atmosphere and manageable caseloads. Reduced burnout increases job satisfaction and retention, creating a positive feedback loop. According to *Collins-Camargo & Royse* [2010], organisational stability with operational efficiency and effectiveness are interlinked; stability in the workforce contributes to

organisational efficiency by reducing the costs associated with recruiting, hiring and training new employees. It also ensures that organisational policies and procedures are consistently applied, improving overall performance.

Despite ongoing efforts to enhance recruitment and retention in social work, challenges persist for social workers remaining in-post after qualification. Historical research has pointed to the bureaucratic nature of social work and systemic problems that leaves the profession failing to retain a workforce [Baginsky 2013]. More recently and statistically, according to a report released on the 9th March 2023 by the Chief Executive of Social Work England, Colum Conway, in November 2022 there were 100,654 registered social workers in England. In the 2021 – 2022 registration year, 5335 social workers left the register, while 6715 new workers joined. This means that the percentage of leavers was 5.3%, compared to joiners at 6.67%.

According to *Chaote* [2017], Child Protection services are effective when they prioritise the safety and needs of the child in their casework. If this focus is lost due to work pressures or for any other reasons, children may experience poor outcomes, and failures could result in serious injury or even death of a child. When such tragedies occur, there may be public outrage and it can create a perception that child protection services are failing. When the media gains control of the story following a tragic incident, the focus tends to be exclusively on what goes wrong. This might lead to a moral outrage that grows as the media

reports repeated failures without speaking about the strengths of child protection practice or the limitations of the work. [Blythe 2014; Parton 2014].

A survey by Unison revealed that three-quarters of social work staff consider their workloads very excessive [Samuel, 2023]. Generally, work stress occurs when job demands exceed an individual's ability to cope, resulting in physical and emotional strain. [NIOSH, 1999, p.6]. Employees can experience burnout due to chronic work-related stress [Lee & Ashworth, 1996]. Montero *et al* [p.11; 2009] described when employees feel exhausted, they tend to lose interest in their work tasks and may be more likely to give up when faced with challenges. The act of withdrawing from work can result from experiencing burnout factors. Job burnout produces a state of mental and emotional disconnection that safeguards against the harmful impact of stressful encounters at work [Lee & Ashworth, 1996; Maslach *et al*; 2001]. Social work is characterised by its intensiveness which can result in psychological pressure, feelings of fatigue and exhaustion, according to Acker [2004] and Brotheridge & Grandey [2002].

As Baginsky [2013] has noted, the social work service standard heavily relies on the social workers skillset and experience. As more and more social workers leave, the standard of service declines due to the shortage of experienced social workers. As a result, the service user experience gets impacted negatively. The quality of social work practice in any setting depends on the quality of the workforce. Both groups experience

disappointment as a result. Pressure at a very early stage of their career due to increased workloads when real competence is missing causes a social worker to leave their career. Hussain *et al*; [2013] noted a direct relationship between self-efficacy, team support, and social work job retention.

A study conducted by Ravalier *et al* [2021] pointed out that the participants [social workers] were given an excessive number of cases and the fact that much work was involved, due to the nature of the cases, was often ignored. They were frustrated with being assigned new cases because their current caseload was a bit low in numbers but what was not considered was that some of their existing cases could be particularly difficult, time-consuming and challenging.

Social work comes with challenging work conditions around personal safety and a lack of support. Social workers in England frequently encounter challenges including dealing with complex cases involving child protection, domestic abuse and mental health issues; the emotionally demanding nature of their work combined with the potential risks of their own safety can have a detrimental impact on their mental and physical wellbeing due to the constant exposure to traumatic situations which can lead to compassion fatigue and vicarious trauma, further contributing to their decision to leave the profession [Bird, 2017].

Gungor [2021] describes the reward management system as a comprehensive framework that

includes specific guidelines, procedures and methods for compensating employees based on their contributions, skills and knowledge. It is intricately developed within the organisations overarching reward philosophy, strategies and policies. This system encompasses a wide range of arrangements including processes, practices, structures and procedures all aimed at providing appropriate types and levels of compensation, perks and recognition to the employees.

Pang & Lu [2018] highlighted the importance of organisations implementing suitable rewards systems to enhance incentives to improve employees job satisfaction. Igalens & Roussel [1999] note that the behaviour and emotions of employees are influenced by motivation and job satisfaction. More incentive means more employee satisfaction. Organisations need to pro-actively create a successful motivation system to boost employees drive for their work. By doing so, organisations can enhance work efficiency and quality thus enabling them to achieve their performance goals.

Studies have shown that balancing work and personal life is crucial for boosting work commitment and is a significant factor in employees' satisfaction. This leads to reduced absenteeism, lower stress levels, better health and an enhanced quality of life. This balance is disrupted when there is a clash between work and family life demands. Work – family conflict arises from the incompatible nature of work and family responsibilities. [Jaharuddin & Zainol, 2019].

Employee surveys are widely used in organisations today and their popularity continues to grow. Their implementation varies from annual surveys to shorter intermittent time intervals. Employee surveys serve multiple purposes such as improving communication between management and staff, allowing employees to express their opinions, diminishing the social gap between management and employee, and facilitating intervention and organisational development. Implementing an employee survey can fulfil more than one of these purposes simultaneously.

However, De Waal [2014] notes in his research that the follow-up process for employee surveys needs to be noticed more frequently, diminishing the efficacy of this commonly utilised management instrument. Many organisations consider the employee survey process has finished once they have collected the data which means they often neglect to follow-up on the results and do not effectively utilise the data to instigate change.

It is crucial to acknowledge the challenges faced by social work practitioners. After training, students and educators often have different expectations which can lead to unsupported feelings. Students need to receive the necessary tools and support to cope with the emotional demands of their studies and future work. Educators should have a deep understanding of trauma work and introduce students to the concept of vicarious trauma.

The quality of social work practice relies on a supportive environment especially in the early stages of a practitioner's career. Factors such as high stress, pay disparity, lack of training and resources, and negative media portrayal can lead to practitioners feeling overwhelmed and lacking control. It is essential to address these challenges with empathy and understanding.

Atifa Laeeqa is a social worker in Berkshire. She holds a MA [Social Work], and an MBA in Finance. She is studying for a PhD in social work, focusing on critical issues such as organisational structure, vicarious trauma, and the need for effective supervision.

References:

Acker, GM [2004] 'The Effect of Organisation Conditions [Role Conflict, Role Ambiguity, Opportunities for Professional Development, and Social Support] on Job Satisfaction and Intention to Leave among Social Workers in Mental Health Care' - *Community Mental Health Journal*, 40[1], pp. 65-73. Available: <https://doi.org/10.1023/B:COMH.0000015218.12111.26>

Badger, K., Royse, D., & Craig, C., [2008] 'Hospital Social Workers & Indirect Trauma Exposure: An Exploratory Study of Contributing Factors' *Health & Social Work* 33[1], pp. 63 - 71. Available: <https://doi.org/10.1093/hsw/33.1.63>

Baginsky, M [2013] *Retaining experienced social workers in children's services – The challenge facing local authorities in England*. London. Department of Education.

Balloch, S., Pahl, J., and McLean, J [1998] *Working in the Social Services: Job Satisfaction, Stress and Violence* – *British Journal of Social Work* 28[3] pp. 329 - 350. <https://doi.org/10.1093/oxfordjournals.bjsw.a011343>

Baycan, T. & Oner, O [2022] The Dark side of Social Capital: a contextual perspective. *The Annals of Regional Science*. Doi: <https://doi.org/10.1007/s00168-022-01112-2>.

Brotheridge C.M., Grandey A.A. [2002] Emotional Labour & Burnout: Comparing two perspectives of 'people work'. *Journal of Vocational Behaviour*, 60[1] – 17-39 <https://doi.org/10.1006/jvbe.2001.1815>

Blyth, M [2014]. *Moving on from Munroe: Improving Children's Services*. Bristol: Policy Press. Available at: <https://www.cambridge.org/core/core/product/identifier/978147315674/type/BOOK>. [Accessed: July 17, 2014]

Burns, K., Christie, A., & O'Sullivan, S. [2009] Findings from a longitudinal qualitative study of Child Protection Social Workers retention: Job Embeddedness, Professional Confidence & Staying Narratives. *The British Journal of Social Work*, 50[5]. doi:<https://doi.org/10.1093/bjsw/bcz-83>

Choate, P.W. [2017] Jeffrey Baldwin: A thematic analysis of media coverage and implications for social work practice, *Child Care in Practice*, 23[1], pp. 21-33. Available at: <https://doi.org/10.1080/13575279.2015.1126225>

De Waal, A [2014] 'The employee survey: benefits, problems in practice, and the relation with the high-performance organisation'. *Strategic HR Review*, 13[6], pp. 227-232. Available at: <https://doi.org/10.1108/SHR-07-2014-0041>

Dull, J. [2024] 'A Lack of Workplace Resources for Social Workers in Schools', *Social Work* 69[2] pp. 177-184. Available at: <https://doi.org/10.1093/sw/swae008>

Emerson, R.W. [2015] Convenience Sampling, Random Sampling, and Snowball Sampling: How does sampling affect the validity of research. *Journal of Visual Impairment & Blindness* 109[2] 164-168. Available at: <https://doi.org/10.1177/0145482X1510900215>

Gungor, P. [2021] The relationship between Reward Management System & Employee Performance with the Mediating Role of Motivation: A Quantitative Study on Global Banks: *Procedia – Social & Behavioural Sciences*, 24[24], pp. 1510-1520. <https://doi.org/10.1016/j.sbspro.2011.0.029>

Hackman, P & Shohet, R [2000] *Supervision in the Helping Professions; an individual, group and organisational approach*. 2nd ed. Buckingham [England]: Open University.

Huebner, L.A., & Zacher, H [2021] Following up on Employee surveys; a Conceptual Framework & Systemic Review. *Frontiers in Psychology* 12[12] <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.801073.full>

Hussein, S., Moriety, J., Stevens, M., Sharpe, E., & Manthorpe, J. [2013] Organisational Factors, Job Satisfaction and Intention to Leave among Newly Qualified Social Workers in England. *Social Work Education*, 33[3] pp. 381-396. <https://doi.org/10.1080/02615479.2013.806467>

Igalens, J. & Roussel, P [1999] – A study of relationships between compensation package, work motivation, and job satisfaction. *Journal of Organisational Behaviour*: Vol. 20; No. 7, pp. 1003 – 1025. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1002/%28SICI%291099-1379%29199912%2920%3A7%3C1003%3A%3AAID-JOB941%3E3.0.CO%3B2-K>

Kirton, G. & Greene, A.M. [2005] *The Dynamics of Managing Diversity; A Critical Approach*. 2nd ed. Oxford. Elsevier Butterworth-Heinemann

Lee, R.T. & Ashworth, B.E. [1996] A meta-analytic examination of the correlates of the three dimensions of job burnout. *The Journal of Applied Psychology*; 81[2] pp. 123 – 133. <https://doi.org/10.1037/0021-9010.81.2.123>

Local Government Association [2024] *Employer Standards Survey for registered social workers – 2024: National*

Summary.

<https://www.local.gov.uk/publications/employer-standards-survey-registered-social-workers-2024-national-summary>

Accessed: 8th August 2024

Lombardero-Posado, X.M., Mendez,-Fernandez, A.B., Aguiar-Fernandez, F.X., Murcia-Alvarez, E., & Gonzalez-Fernandez, A [2022] Social Workers Self-Care Practices. Buffering the Influence of Work-Family Interferences on Burnout and Engagement. *Health & Social Work*; 47[3] pp. 195 – 204.

<https://doi.org/10.1093/hsw/hlac010>

Maslach, C., Schaufeli, W.B., & Leiter, M.P. [2001] Job Burnout. *Annual Review of Psychology*. 52[1] pp. 397 – 422.

<https://doi.org/10.1093/bjsw/bcac191>

McLaughlin, H., Scholar, H., McCaughan, S. and Pollock, [2022]. 'Should I Stay or Should I Go?'. The experiences of forty Social Workers in England who had previously indicated they would stay in or leave Children & Families social work. *The British Journal of Social Work*. 53[4]

<https://doi.org/10.1093/bjsw/bcac191>

Montero, M.J., Araque, R.A., & Rey, J.M [2009] Occupational Health & Safety in the Framework of Corporate Social Responsibility. *Safety Science*. 47[10] pp. 1440-1445. Munson, C.E [2002] *Handbook of Clinical Supervision*.

Pank, K. & Lu, C.S [2018] Organisational motivation, employee job satisfaction, and organisational performance: An empirical of container shipping companies in Taiwan; *Maritime Business Review* 3[1] pp. 36-52. <https://doi.org/10.1108/MABR-03-2018-0007>

Parton, N [2014] *The politics of Child Protection: contemporary developments and future directions*. Basingstoke, Hampshire: Palgrave Macmillan.

Ravalier, J., Wainwright, E., Clabburn, O., Loon, M., & Smyth, N [2020] Working Conditions and Wellbeing in UK Social Workers. *Journal of Social Work*. 21[5] pp. 1105- 1123

<https://doi.org/10.1177/1468017320949361>

Ravalier, J., McFadden, P., Gillen, P., Mallett, J., Nicholl, P., Neill, R., Manthorpe, J., Moriety, J., Schroder, H., & Curry, D [2022]. Working conditions and wellbeing in UK social care and social work during COVID-19. *Journal of Social Work* 23[2] p. 146801732211094

<https://doi.org/10.1177/14680173221109483>

Samuel, M. [2023] 'A quarter of those who quit the register had been on it for less than a year' reveals Social Work England – Community Care.

<https://www.communitycare.co.uk/2023/03/16/quarter-of-those-who-quit-register-last-year-had-been-on-it-for-less-than-a-year-reveals-social-work-england/>

[Accessed on 13th October 2023].

Samuel, M. [2023] Social Work England to research professions recruitment and retention challenges.

Community Care.

<https://www.communitycare.co.uk/2023/02/17/social-work-england-to-research-professions-recruitment-and-retention-challenges/>

[Accessed 25th October 2023]

Sorensen, E [1989] Measuring the pay disparity between typically female occupations and other jobs. A bivariate selectivity approach. *Industrial & Labour Relations review* 42[4] pp. 624-639

<https://doi.org/10.1177/001179398904200411>

Stanfield, D., & Beddoe, L [2013] Social Work and the media: A collaborative challenge – Aotearoa New Zealand Social Work 24[4] pp. 41-51

<https://web.p.ebscohost.com/ehost/pdfviewer?vid=0&sid=a37bdc6c-7a7f-4d1a-be54-bf4788458957%40redis>

[Accessed 17th July 2024]

Tham P. & Meagher G [2008] 'Working in Human Services: How do experiences and working experiences in Child Welfare social work compare?' *British Journal of Social Work* 39[5] pp. 807-827

<https://doi.org/10.1093/bjsw/bcm170>

Thompson, N., Murphy, M., & Strading, S.G. [1994] *Dealing with stress*. Basingstoke: Macmillan.

Thompson, N. [2013] *People Management*. New York. Palgrave Macmillan.

Travis, D.J.. et al [2015] 'I'm so stressed'. A longitudinal model of stress, burnout and engagement among Social Workers in child welfare settings. *British Journal of Social Work* 46[4] pp.1076-1095

<https://doi.org/10.1093/bjsw/bct205>

Schools, Punishment & Parents: How children in state-funded English schools at the turn of the twentieth century were taught to be good moral citizens.

Dr Ruth Felstead

There is, in the third decade of the twenty-first century, considerable concern about both attendance and behaviour in schools with a BBC survey in 2024 showing that one in five teachers had been hit by a pupil, with a similar number having experienced abuse from parents. At the same time, the *Report of the Education Policy Institute* in 2025 shows that the rate of unauthorised child absences from school was, in 2024, 40% higher at primary and over 80% higher at secondary than they were in 2019 before the COVID-19 pandemic. This article takes a step back into the late nineteenth century to provide a discussion of measures taken by schools to instil values of obedience and respect into pupils – showing that many of the issues concerning education today are by no means new.

In 1875, five years after schooling for all children between five and ten years of age became compulsory, the following statement appeared in the Committee of Council on Education's Codes of Regulations.¹ - *To meet the requirements respecting discipline, the managers and teachers will be expected to satisfy the inspector that all reasonable care is taken, in the ordinary management of the school....to impress upon the children the importance of cheerful obedience*

to duty, of consideration and respect for others, and of honour and truthfulness in word and act.²

The sentiment of this statement was that school children must learn to be obedient, and this obedience must be willing and voluntary or, in other words, 'cheerful'. From 1870 onwards therefore, children were expected to develop and internalise the behaviour, habits and character which were regarded as appropriate with schools, becoming responsible for instilling acceptable standards of attitude and behaviour.

Concern over the morals and behaviour of the lower classes, particularly in urban areas, had been voiced by reformers from the early nineteenth century. The 'Condition of England' question created debate about the moral as well as the physical condition of the poor.³ Urban slums, common in the new industrial cities such as Manchester, Liverpool, and Birmingham, resulting from the need to house the expanding urban population at low cost, were portrayed negatively in literature of the time.⁴

The Manchester surgeon, Peter Gaskell, observed in 1836: *Recklessness, improvidence, and unnecessary poverty, starvation, drunkenness, parental cruelty and carelessness, filial disobedience, neglect of conjugal rights, absence of maternal love, destruction of brotherly and sisterly affection...the results of such a combination are moral degradation, ruin of domestic enjoyments and social misery.*⁵

Michael Sadler, educationalist and champion of public education, stated in his 1908 Report into Moral Education that schools were places where moral issues should be addressed for the benefit of children, home, and community.⁶ George Dixon, Chairman of the Birmingham School Board in his 1879 lecture to the Birmingham Teachers Association, spoke of the 'moral atmosphere' of many young people's homes being adverse to the transmission of moral values.⁷ In 1889, similar concerns about the morals of the young were raised in the letters column of the *Times*, including a letter written by the imperialist Reginald Brabazon, 12th Earl of Meath who opined that corporal punishment in schools was the only remedy for moral shortcomings.⁸ Morals were frequently referred to as 'character traits', deemed by reformers as desirable for the working-class child to adopt. Given this concern, it is apparent that schools rather than parents, effectively became tasked with improving the morals of the child.

Phillip Corrigan and Derek Sayer identified schools as well placed to encourage cultural and political hegemony through the experience of everyday common events, procedures and rituals – for example, regular attendance, compliance with rules, and respect for authority of all types including teachers and parents.⁹

In the classroom however, the need for discipline was much more practical. From 1862, schools were funded through attendance and the results of the Annual Inspection carried out by Her Majesty's Inspectors [HMIs].¹⁰

If children did not attend regularly, and /or if discipline was lacking, learning would not take place and consequently, the government grant which in many schools made up most of its funding, would be reduced. Schools would then suffer consequences such as reduction of staff and teachers' salaries, and money for books, slates and other materials such as coal for keeping the building warm. In 1887, Crabbs Cross School in Redditch, Worcestershire, recorded – 'Meeting of School Board: it was decided to reduce teachers' salaries. All Head Teachers to find their own fuel and light.'¹¹

As a result of these measures, discipline, both in terms of attendance and behaviour, and the punishment associated with it, became essential for schools to survive.

Punishment

Punishment was accepted by most educationalists, teachers and even most parents as perfectly acceptable if it was 'just' – that the punishment was appropriate to the misdemeanour. Respected educationalist Joseph Langdon's 1894 teaching guide posited that the point of discipline was to create a frame of mind in children to curb 'evil tendencies and habits' and to 'cultivate a sense of honour and duty'.¹² Landon stated that punishment was an essential and positive part of the normal procedure of the school; it was necessary to maintain order and learning. However, he also pointed out that the 'cheerful obedience', which schools were required to engender in their pupils, required a change or moral attitude that punishment alone would not bring about:

Mere external compliance ...is not...the kind of obedience calculated to train and benefit the child...True obedience is a rational obedience, given cheerfully and at once, from a willingness to be led ... to do what the teacher wishes because it is felt to be right.¹³

This remark suggests that punishment as a route to behavioural change was not, on its own, likely to lead to the willing assent of pupils. Nonetheless, it was something that schools were required to perform for effective discipline without which neither formal nor informal learning could take place. David Salmon, Principal of Swansea College stated that 'bodily chastisement' could prevent repetition of the offence, either by miscreant or by other's copying it.¹⁴

Parents who objected to corporal punishment could be vocal in their condemnation of it, sometimes taking their child out of school and moving them to another school [which was within their rights] or on occasions, presenting themselves at the school when an angry exchange of words, threats or even violence might occur: *Following the punishment of a boy for truancy, a group of about 30 women came and threatened to lynch the master who was however, absent attending the audit of School Board accounts.*¹⁵

*Punishing four boys for fighting. Mr D., father of one of them came to the schoolhouse to forbid the master to punish his lad again for the like offence as he gave the boy orders to fight it out.*¹⁶

*Incident with a boy who was punished for 'calling after' a monitor and then assumed a 'defiant posture'. Later, he commenced fighting and said his father had told him to do it. As not the first occasion, that the father had issued such orders, the master sent the boy home and reported the case to the Vicar.*¹⁷

Despite these objections, parents could legally do nothing to prevent corporal punishment from taking place. Although they might have felt that they were being forced to hand over their own powers of discipline to those of the school, the right of schools to administer corporal punishment was upheld in law by the case of *Gardiner vs. Bygrave* [1889]. A teacher, John Bygrave was prosecuted for assault by a parent following the use of a cane on a child's hand which was a form of punishment considered relatively mild in most schools. Initially, the Judge ruled that this punishment was not 'proper' and Gardiner was required to pay costs. However, following an appeal in November 1889, this was overturned, the Judge this time ruling that such punishment was perfectly moderate and reasonable, and that a teacher was within their rights to punish a child as such, even though the parents might object.¹⁸

Some parents, far from objecting to corporal punishment, co-operated with the school for it to take place, sometimes being present to witness it. For example, the Belbroughton Fairfield School in North Worcestershire recorded the following in its Logbook:

Child [A] was very rude to his teacher and on being punished by the Mistress,

he attempted to hit her with a slate and also with a brush. The Mistress communicated with the Managers. [His mother] asked for him to be forgiven and re-admitted. He was forgiven on condition that he apologise and take a caning before the children, which was administered by the Mistress in the presence of the Rector and his mother.¹⁹

Parental support was also sought by Crabbs Cross School in Redditch in a case of premeditated and organised truancy:

[An] act of insubordination [took place] by 12 boys across standards 3-7 who had previously arranged to run away; after playtime instead of falling in for drill, they ran off over the fields. Parents were visited and told that their offspring would be punished on Monday.²⁰

The parents complied and sent the children to school the following Monday for them to receive their punishment which was initially three strokes on their hands. The boys, however, refused to hold out their hands and as further punishments were:

..placed on one of the desks and received three cuts with the cane on the lower part of their backs. They seemed to feel the punishment very much at the time. However, they received some sound advice from the Master in the folly of their conduct and when called upon to resume their studies, did so cheerfully and their behaviour during the week has been exemplary.²¹

Reprimanding the boys in front of the whole school would have served to shame and humiliate the perpetrators. It would have also been intended to serve as a deterrent to others – ‘robbing’, as Michael Foucault suggested, the crime of any attraction.²² The caning would be seen as just, and proportionate – in general, caning the hand was, as explained above, a lesser penalty than on the back. It was expected by educationalists such as Henry Bompus Smith, and the teaching establishment in general, that children would accept just punishment, unquestioningly and without resentment.²³ The boys in this case did not accept their punishment so they suffered further. Landon stated in 1894 that force was sometimes necessary to bring about the internalisation of what is right.²⁴ That the boys then accepted the advice of the Master and returned to their studies ‘cheerfully’ implies that in this case, the process seemed to work.²⁵

The degree and type of punishment is shown clearly by ‘punishment books’ which were required to be kept in each school run by the Birmingham School Board from 1877 onwards. The three tables below give an indication of this:

Table 1: Icknield Street Board School Punishment Book 1883 – 1946 – examples of offences and punishments²⁶

- 1883 – Going home without permission – 3 strokes hand
- 1884 – Throwing stones in playground – 4 strokes hand
- 1885 – Copying – 4 strokes hand
- 1885 – Repeatedly too late to mark through playing on way to school - 3 strokes hand
- 1888 – Truant – 3 strokes hand
- 1896 – Kicking another girl in playground – 2 strokes hand
- 1898 – Carelessness and inattention – 2 strokes hand

Table 2: Barford Road Board School Punishment Book [Senior Boys Department] 1895 – 1910: examples of offences and punishments²⁷

1896 – Slapping a teacher – 4 on hand /4 on seat
 1896 – Truanting [2nd offence] – 3 on hand /4 on back
 1896 – Bad work – 4 on hand
 1897 – Lying – 4 on hand /2 on shoulders
 1898 – Making water over a boy – 4 on hand /1 on seat
 1899 – Filthy condition – 4 on hand
 1901 – Very lazy – 3 on hand

Table 3: City Road Board School Punishment Book 1895 – 1946: examples of offences and punishments²⁸

1895 – Truancy – 2 stripes
 1896 – Throwing stones /damage – 3 strips on each
 1896 – Slogging gang – 7 multiple offenders /4 cuts each
 1898 – Truancy – 4 cuts and locked up
 1898 - Truancy & associating with peaky blinders – 6 cuts
 1898 - Bad language in school – sent home, mother deal
 1899 - Bad language, truancy, enticing others, stealing – Locked up for day but escaped through window
 1901 - Lateness & disobedience – 3 stripes/ locked in room

From these tables, we can see that punishment was largely given for truancy and lateness, bad language, disobedience, dishonesty, and not producing careful work. 'Dirty' habits and actions were also addressed; sometimes by sending children home. Some children however, such as Staniforth Street in Birmingham, rather than punishing, provided baths for their children.²⁹

Some of these behaviours could affect the school's ability to receive its full grant: for example, when truancy and lateness affected attendance figures, and when poor work affected the outcome of inspections. However, these offences, and others that were listed, such as attacks on a teacher or fellow pupil, urinating on others, disobedience and stealing, did not simply break the rules but challenged

the moral values that elementary education was expected to instil. As Landon wrote, the importance of discipline was to: *make [the child] amenable to law and order....prompt willing obedience, while at the same time strengthening to act more and more independently until he is a law unto himself....that he may grow in strength, both morally and intellectually, and be ready to do his duty in any position in which he may be placed.*³⁰

Despite their behavioural issues, or perhaps because of their strong punishment regimes, both Barford Road and City Road schools were highly regarded and enjoyed excellent HMI reports. Furthermore, Barfield Road was frequently showcased by the Birmingham School Board, received many visitors in the late 1880's and 1890's, from both British and overseas educationalists.³¹ It was also used for the placement of training students, and generally received glowing reports from the HMI, Mr Osmond Airy, who wrote in 1888 and 1896 respectively: [1] *I have never inspected a school with greater pleasure or with results more satisfactory in all branches of the work.* [2] *There was reason to be struck with the intelligence of the methods of instruction....the brightness and energy of the teaching, the discipline of the children and the signs of co-operation amongst the staff.*³²

Whilst most schools practiced corporal punishment, this was not the case everywhere. In Birmingham, the Bridge Street Seventh Grade School [catering for older boys who hoped to enter into technical apprenticeships] whilst still looking to inculcate moral values, used

a different approach. The message of this different approach appears to have been an attempt by the headmaster to develop motivation for learning through the encouragement of a real desire to learn on the part of the boys. This was very much in keeping with the expectation of cheerful [rather than coerced] 'obedience to duty' and was similar to what was called Landon's 'moral suasion' in that the headteacher believed that discussion and persuasion worked better than punishment in bringing about willing obedience. Whilst records at Bridge Street indicate very few incidences of lateness, truancy or bad language by the pupils, such was the strength of belief in corporal punishment that the staff sometimes found themselves reprimanded for going against the rules and implementing some other form of punishment in their classrooms: [1] *Advice given to [Mr I...] that his discipline and order have been weak, and he has resorted to objectional forms of punishment such as wholesale keeping in. [2] I have had a conversation with [Mr M...] with reference to his striking a boy on the head with his hand. I have given him advice about this method and manner of securing discipline in his class and of producing in it, good tone and feeling.*³³

Truancy, non-attendance, and the importance of parents

Truancy was, as shown above, one of the most common reasons for punishment. Ten years after the passing of the 1870 Elementary Education Act, school attendance became legally compulsory for all children aged five to ten [later raised to twelve] years of

age. Local school authorities [either School Boards or Management Committees] were required to provide measures to enforce attendance.³⁴ Local byelaws were passed and newly appointed enforcement officers were tasked with chasing up non-attenders and taking cases to local magistrates, who would be responsible for prosecuting and fining their parents.³⁵ Despite the compulsion, parents were, until 1891, required to pay fees [usually one or two pence] for each child at school. This, along with the fact that children were now unable to contribute to the family income either by working themselves, or by minding younger children at home, added to the financial burden of poor families. Parents in rural areas frequently kept their children from school for the benefit of the family.³⁶ Logbooks show that whilst non-attendance was a very serious problem, schools were unlikely to punish pupils who were absent because they had been kept away by their parents.

At Comer Gardens School on the outskirts of Worcester, for example, the main cause of lateness and non-attendance was that children, especially girls, were required to 'mind the home' whilst parents worked in the fields.³⁷ These children were not punished. This is mirrored in Christopher Bischof's research which found that the care of siblings was often seen by teachers as a legitimate excuse for absence.³⁸ For many schools, this was a serious issue with headteachers complaining that the punishment of parents by local attendance officers and magistrates was ineffective.³⁹ For example, Crabbs Cross School near Redditch, complained in 1880 that

despite requests for the attendance officer 'to visit from the beginning of January, he did not appear until the 22 February'⁴⁰ Two nearby schools, Astwood Bank British and St Stephen's Redditch Half-time Department, complained neither the attendance officers nor the factory inspectors were able to do anything to make half-timers attend school when the factories were not working even though legally, they were required to do so: *Very small attendance; Officer called out but could do little good. Factories not at work – this always causes irregular attendance.*⁴¹

Attendance issues of this nature were seen by HMI's as failings of parents and local authorities, not of the child; or, as Worcestershire HMI Barrington -Ward remarked '*careless mothers, apathetic authorities, and hostile magistrates*'⁴² Barrington-Ward was of the view, shared by other HMI's for rural areas, that many magistrates, often landowners reliant on local labour, were happy to obstruct efforts to fine offending parents for their children's absence from school.⁴³ Accordingly, there was a consistent theme in Worcestershire logbooks that parents, knowing there would be no reprisals, continued to keep their children from attending school.⁴⁴ This suggests a complex picture of moral transmission in that parental and local authority values are more difficult to combat than those held by pupils themselves. This led to many schools to try open discussion with parents rather than rely on 'official' support, and research suggests that this could often be much more effective because the development of friendly and informal relationships between parents,

attendance officers and schools often led to positive outcomes.⁴⁵ For example, Staniforth Street School located in a very poor area of Birmingham, encountered parental opposition to school as shown by this logbook entry: *Great difficulty in getting the boys in school....parents would not send them out at all if not compelled. When sent for, I so often get replies 'I shall not send him' or... 'Come and fetch him if you want him'.*⁴⁶

This opposition continue in many forms, some violent, into the mid-1890's. By 1900, however, the school had succeeded in securing increased parental support through a series of entertainments and information evenings detailed in the logbook – for father's a 'smoking concert' [with tobacco provided] and for mother's, a very successful gathering [with refreshments provided by the Friends Temperance Mission] where a local Health Visitor gave an address, and piano music was played.⁴⁷ These meetings appeared to have strengthened parental confidence in the school and highlighted its role as a welfare institution as well as a place of education. Furthermore, they included visits, lectures, and special 'teas' arranged at the school by temperance organisations such as the Band of Hope and the Society of Friends.⁴⁸

Philip Gardner, reflecting on the 1870 – 1914 period, comments that teachers later viewed it as 'those dangerous days....when the principle of compulsory schooling had been battled out in the classroom by conscripted pupils and their desperate

teachers⁴⁹ From the mid-1890's however, parental opposition to schools gradually waned as financial pressures on them reduced and more schools reached out to parents and the community, in a welfare role.⁵⁰ Yet, despite the changing discourses amongst educationalists around punishment, it remained a dominant control mechanism for pupils until well into the twentieth century.⁵¹ This indicates that punishment, including corporal punishment, continued to be regarded as the most effective means of instilling the required behaviour and values.

Corporal punishment remained legal in UK schools until 1987.

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¹ The Committee of the Privy Council was the body that oversaw and set the policy and practice of English state funded school between 1839 and 1899 when it became the Board of Education.

² Committee of Council for Education, England & Wales New Code of Education [as modified by minutes of 5th April 1875, pg.6

³ T. Carlyle, *Chartism: Past & Present* [London, 1838] pp. 3-7.

⁴ A. Mayne, *The Imagined Slum* [London, 1993].

⁵ P. Gaskell, *The Moral & Physical Condition of the Manufacturing Population Considered with Reference to Mechanical Substitutes of Human Labour* [London 1836].

⁶ M.E. Sadler [Ed], *Moral Instruction & Training in Schools; Report of an International Enquiry. Volume 1.* [London 1908]

⁷ G. Dixon, 'Lecture on Elementary Education in the Birmingham Board Schools, delivered to the Birmingham Teachers Association [Birmingham Archive & Heritage Service [BAHS] 1879] 19.

⁸ Views such as these are expressed in a debate over several weeks in *The Times*: see Selina Hogg et al., 'Juvenile Punishment' *The Times* [10/1/1889] 10; Meath et al. 'Juvenile Punishment' *The Times* [21/1/1889] 7.

⁹ P. Corrigan & D Sayer, *The Great Arch: English State Formation as Cultural Revolution* [Oxford, 1985] 2-3.

¹⁰ Committee of Council for Education, England & Wales; The Revised Code of Regulations [1862] sections 48, 51.

¹¹ Crabbs Cross Logbook [24/4/1887].

¹² J. Landon, *The Principles & Practices of Teaching & Class Management*. [New York, 1894] 204.

¹³ Landon, *Principles and Practice*, 195.

¹⁴ D. Salmon, *The Art of Teaching*; [London, 1898] 35-37.

¹⁵ Staniforth Street School, Birmingham, Logbook [1896].

¹⁶ Crabbs Cross School, Redditch, Logbook [26/7/1880].

¹⁷ Evesham National School, Worcestershire [13/7/1893].

¹⁸ Another Important Decision. *The Schoolmaster* 9/11/1889, 662. Cited in J. Middleton, *The Experience of Corporal Punishment in Schools 1890 – 1940, History of Education*, 37.2 [2008]. 243 – 275.

¹⁹ Belbroughton Fairfield School Logbook [October 1896] in W. Hogarth, *Fairfield School, Bromsgrove: one hundred years of history 1875 – 1975* [Unpublished: Bromsgrove Library Local Collection. L372942442, 1975] 4-5.

²⁰ Crabbs Cross School Logbook [27/11/1896].

²¹ Crabbs Cross School Logbook [4/12/1896].

²² M. Foucault, *Discipline and Punish: The Birth of the Prison* [translated from the French edition by Alan Sheridan] [London 1977] 170 – 177.

²³ Middleton, *Experience of Corporal Punishment* 253-4, 260. : H. Bompas-Smith; *Boys and their Management in Schools* [London 1905] cited in Middleton 254.

²⁴ Landon, *Principles and Practice*, 188.

²⁵ Felstead, *Teaching Cheerful Obedience* 131-132; Foucault, *Discipline and Punish*; 125-131.

²⁶ Extracts from Icknield Street School, *Punishment Books*, [BAHS, 1883-198].

²⁷ Extracts from Barford road School, *Punishment Book* [BAHS, 1896-1901].

²⁸ Extracts from City Road School *Punishment Book* [BAHS, 1895-1901].

²⁹ Staniforth Street School Logbook [23/9/1899]; High Street School Logbook [2/12/1887].

³⁰ Landon, *Principles and Practice*. 188

³¹ Barford Road School Logbook [18/11/1888; 7/8/1896; 25-28/5/1897].

³² Barford Road School Logbook [1888-1896] 41,220

³³ Bridge Street Seventh Grade School Logbook [3/3/1886]; Logbook [12/1/1888].

³⁴ 1880 Elementary Education Act, chapter 23, p.143.

³⁵ Ibid

³⁶ Felstead, 'Teaching Cheerful Obedience', 126-128.

³⁷ Comer Gardens School, Logbook 27/6/1881].

³⁸ C. Bischof, *Teaching Britain: Elementary Teachers and the State* [Oxford 2019], 172.

³⁹ For Example, Evesham National Boys School Logbook, [28/5/1880; 7/9/1880]. See also Horn, *Victorian and Edwardian Schoolchild*, 21-22; A. Davin, *Growing Up Poor* [London, 1996] 88-111.

⁴⁰ Crabbs Cross School Logbook 16/1/1880; 22/2/1880.

⁴¹ Astwood Bank British School Logbook [27-30/4/1886; see also St Stephen's Redditch Half-Time Department Logbook [12/11/1886].

⁴² Committee of Council on Education; England & Wales *Reports of Appendices* [1881-1882] 194-195.

⁴³ Ibid., [1881-1882] 194-198, [1891-1892] 375, [1893-1894] 29.

⁴⁴ *British Medical Journal*, History of the Elementary School Child IV: The Attendance Officer. 'The British Medical Journal' [1908] 2, 1688.

⁴⁵ S. Auerbach 'The Law has no feeling for Poor Folk like Us'. *Everyday Responses to Legal Compulsion in England's Working-Class Communities*. [1871-1904] *Journal of Social History*, 45.3 [2012], 686-708.

⁴⁶ Staniforth Street School Logbook [12/7/1886].

⁴⁷ Staniforth Street School Logbook [5/10/1900; 16/11/1900; 29/3/1901].

⁴⁸ Staniforth Street School Logbook [31/1/1899; 20/1/1893; 1/2/1895].

⁴⁹ P. Gardner, 'The Giant at the Front: Young Teachers and Corporal Punishment in Inter-War Elementary Schools'; *History of Education*, 25.2 [1996] 141-163 157.

⁵⁰ Wright, S [2009] 'The Work of Teachers and others in and around a Birmingham slum school 1891-1920' in *History of Education*. 38.6., November 2009, 729-746.

⁵¹ This process is well explained by Gardner, 'The Giant at the Front' 141-146. See also Jonathan Rose 'Willingly to School' [1993] in Rose, 'The Intellectual Life' 146-182.

Repeal of the Presumption of Parental involvement

John Mallinson

For many years in conjunction with Family Law proceedings and s1 Children Act 1989, the 'presumption of parental involvement' underpinned a doctrine that it was in the child's best interest to have contact with both parents unless harm, or a risk of harm, was proven. The proposed legislative changes herald a significant shift of focus to the child's safety and welfare as an absolute priority, placing a greater expectation upon Courts to assess each case on its individual facts and evidence.

The reforms are intended to offer even more protection to children and the survivors of domestic abuse by moving away from what some refer to as a *pro-contact culture*, consequently removing the current default starting point of prioritising parental rights and assuming contact with both parents is beneficial over a child's safety thereby aligning the law with the guidance that children are victims of domestic abuse even if they do not directly witness it. The repeal is a reported broader move to secure children's safety which could extend, for example, to include the removal of Parental Responsibility for children conceived through rape.

Where allegations of domestic abuse have been made, the Court will normally consider Practice Direction 12J and prepare for a Finding of Fact to examine the evidence and reach a fair and balanced conclusion.

A review of cases by the Domestic Abuse Commissioner in 2023 disclosed

that a disproportionate number of cases before the Court where domestic abuse was cited as an issue resulted in Contact Orders being made where a parent posed a risk of harm to a child. The repeal of a *Presumption of Contact* will address the concerns of contact being ordered when it should not be. Parenting is a privilege not a right and all that really matters is the child's rights to safety which should be at the heart of every decision made in the Family Court.

This landmark change to the Family Courts was announced in October 2025, outlining that courts will no longer work on the presumption that having contact with both parents is in the best interest of the child. This comes some five years after the Harm Panel Report recommended an '*urgent review*'. The government has not committed to a timeframe for progressing the legislation, simply saying this will happen '*when parliamentary time allows*'.

Families now find themselves in limbo. On the one hand, the Government's position upholds the presumption of contact as being unsafe and should be repealed. But until then, the presumption remains law and can be applied by the Court.

The presumption of parental involvement has often been contentious in cases where there have been findings of domestic abuse. The presumption was debated at length prior to its introduction and considered to be a limited, rebuttable presumption that the involvement of both parents was beneficial to children unless the court determined that it was not

consistent with the child's welfare. Crucially, this did not incorporate a presumption of a child spending equal time with their [separated] parents and reiterated the paramountcy of the welfare principle.

A key concern was the balance of ensuring there were appropriate safeguards for children – to avoid cases where the presumption could essentially override a child's safety, but also to '*reinforce the importance of children having an ongoing relationship with both parents after family separation*'.

The very first section of the Children Act 1989 is devoted to the protection of the welfare of children and sets out that '*when the court determines any questions with respect to the upbringing of a child..... the child's welfare shall be the courts paramount consideration*'. The Welfare Principle is applied as the most important statutory principle in every case.

In 2014, the presumption of contact was added by amendment [section 1[2A] to the Children Act which sets out, in summary, that '*the court is to presume that unless to the contrary is shown, involvement of 'some kind'...will further the child's welfare*', which makes it clear that the presumption will apply when a parent can be involved in the child's life in a way '*that does not put the child at risk of suffering harm*'.

Practice Direction 12J is applied in cases where there are allegations of domestic abuse and states that: *The court must in every case consider carefully whether the statutory presumption applies, having particular*

regard to any allegation, or admissions of harm, caused by domestic abuse to a child or parent, or any evidence indicating such harm or risk of harm'.

Notwithstanding this qualification and clear practice guidance, it has been argued that there have been cases where the misapplication of the presumption led to 'dangerous' decisions being made in certain cases.

Some of the criticism following the introduction of the presumption, which was highlighted in the Harm Panel Report 2020, was that a '*pro contact culture*' had developed in that, rather than rebuttable, the presumption was being treated as a '*starter point*' and was potentially being misapplied in court proceedings, detracting from the courts focus on the child's individual welfare and safety.

There were many reports from both survivors of domestic abuse and children who were the victims of abuse saying their voices were not being taken into account and that parents who were survivors of abuse felt it '*gave an abusive parent power over the non-abusive parent*'.

Five years have passed since the panel made its recommendations that an urgent review of the presumption was needed and this was supported vociferously by the Domestic Abuse Commissioner who has been consistently critical of the presumption, arguing that it has led to unsafe contact orders. The government's announcement of the repeal has been welcomed by the Domestic Abuse Commissioner as a '*pivotal step*'.

What would this mean for cases

Courts will assess each case on its own facts with the child's safety and well-being as the absolute priority. Contact is not guaranteed and a parent seeking contact must demonstrate it will be safe, beneficial, and in the child's best interest, rather than the other parent proving it would be harmful. The Court will look at the impact of any change, the child's wishes and feelings, and the parents' ability to meet needs with a strong emphasis on preventing harm. In essence, the law is moving away from a 'pro-contact' bias to a 'pro-child' stance, ensuring parental involvement is earned and proven to be safe, not presumed.

Domestic abuse campaigners have said the move will save children's lives. Claire Throssell MBE, one of the campaigners who has driven for this change since the death of her sons Jack [12] and Paul [9] at the time, who were killed by their father in 2014 after he had been granted five hours of contact each week despite warnings that he was a danger to them. Claire Throssell has written a book about her experiences and campaigning entitled *For My Boys* [ISBN 1917439326].

However, there is counter debate that argues the proposed reform could have unintended consequences, that the risks of a one-dimensional reform could cause as much harm as it aims to prevent.

As already discussed, the current legislation establishes that unless shown to the contrary, a child should generally have contact with both parents if safe and in that child's best

interest. The repeal seeks to remove even that starting assumption and could make it easier for one parent to marginalise the other through conflict, hostility or alienation, long before any factual findings are made. The balance of power, in already-fractured families, could shift decisively towards whichever parent controls the narrative first.

For many of the parents, the damage is not done by the final order but by the months or years of reduced contact while allegations remain untested. Removing the presumption would not automatically create safer outcomes. It could risk encouraging a culture of pre-emptive restriction, 'better safe than sorry' where cautious courts may err towards limiting contact even in the absence of proven harm.

It could be suggested that it is not the presumption of contact that needs repealing but the inconsistency of how courts apply it. There is a significant distinction between a well-reasoned judgment addressing contact against risk, compared to an outcome that treats the presumption as a tick-box exercise. A focus on upgrading judicial training, prompt and careful case screening, and thorough findings of fact might be more effective than legislative repealing and subsequent deletion.

The Pathfinder Project currently being rolled out at selected Court Centres in England adopts a model designed to fast-track cases and reduce delay, however, this also shortens the opportunity for Findings of Fact hearings and cross-examination. In that context, removing the presumption of

contact could result in less scrutiny, reduced guidance, and the potential for subjective interpretation.

The concept of *shared parenting* may now be a fading ideal and the future is more about recognising that in most cases, children thrive when they spend time with both parents who provide them with love and security even when those parents no longer enjoy a close relationship themselves. A presumption of contact does not mean a presumption of safety. Conversely, safety concerns should not become a pretext for exclusion, alienation, and protracted litigation especially where no risk has been established. Adopting a framework of 'safety versus contact' should be balanced against 'safety **and** stability' because both are very important and relevant to a child's welfare so each is worthy of legislative protection.

Legislative reforms are best implemented when evidence-based rather than as a reactionary measure as that can resolve some problems but amplify others. The ideal is protecting the vulnerable whilst upholding fairness.

John Mallinson
Part-time FCA /CDO

Reclaiming Narrative – The teller keeps the power of the story

Ty'rone Haughton

When I founded *Literati Arts* in 2022, it was at a time when I was revisited by the frustration that I had lived with throughout my time in care; a frustration with the systems I engaged with and the communities around me. School, doctors, dentists and even my youth basketball coaches all knew a synopsis of me, before I could introduce myself, before they even met the living, breathing and feeling human that I am. On the accord of my foster carer and social workers, they were told about my past, my life and given tools to mitigate against the 'foster kid'isms' I may present. And this frustrated me more; I felt like a saxophone, one that never played a note but everyone had theories on how I sounded.

I did not believe in luck but *luckily*, I found poetry, the most democratic of all the arts, an art where the rules are begging to be moulded to suit the user. Poetry is a place that never cared about my inconsistent handwriting or the way I flit between upper and lower case as if I glitch my way through words. What I found in poetry was a place of my own to create, tell, recreate and retell my story from my perspective. Who knows my experience better than me? The notes and reports filed by social workers were full to the brim, yet so empty in truth.

In 2022, after spending several months doing therapeutic work around the abuse I experienced throughout my childhood, the frustration came back. My life paused due to the heavy

realisation that my story has been told by many people but not once by me. I have always been both the protagonist and antagonist but never the author. In this season of pause, I thought this feeling could not be exclusive to me, surely other Care-Experienced people feel this way. And so, *Literati Arts* was born.

Literati Arts is a storytelling organisation using poetry and self-narrative to centre the truth of Care-Experienced people. Our belief is that healing and transformation happens through storytelling. We employ practitioners with lived experience to work with us, and our way is always holistic and trauma informed. We facilitate *Sticks + Stones*, a performance poetry project for children in care, led by Care-Experienced poets. The project uses poetry and performances as tools for processing, self-expression and building self-esteem.

But the project I would like to explore here is our Heritage Lottery Funded Black Care: Oral Histories, an extension of 'Black Care' which is our National Care Leavers Week festival, celebrating the lives and stories of Britain's Black Care-Experienced people.

Whilst conducting the oral history interviews, we were privileged to speak to people from across the country who varied in age and experience. We interview people who were in care in the 1960's and those who were in care in 2020. Admittedly, it may have been naïve of me to think they would offer vastly different perspectives, which they did to an extent. However, overwhelmingly, each of them sadly

put forward these truisms – [1] No-one ever *listened*; [2] *I have never spoken about this before*'. These both highlighted that the British Care - Experienced community is one that is ignored and the shame and stigma of their experiences makes them closed off and prevents true community building.

I interviewed a pair of siblings in their late fifties. I spoke with the sister for a considerable amount of time on the phone beforehand to give her peace of mind regarding the project. She told me she would only be comfortable doing the interview if it featured her brother as they were in care together. I obliged and spent a while on the phone with the brother, doing what I had done with the sister. We agreed to meet at the sister's home to conduct the interview, which was over two hours long, on a humid day in late August. The nature of the day made it feel hotter than it was. In the sister's living room, adorned with her paintings and pictures of her children taking pride of place, we sat and talked about some of the most painful times of their lives.

What I found most intriguing during the time I spent with the siblings was the number of times one of them would whip their head round in disbelief in response to what they heard from the other. They were in care together, in the same houses at the same time but only now, during this interview, they learnt things for the first time about the other's experiences. I wondered what would cause two people living in such proximity with similar experiences, not to speak about it. Could it be the shame or the isolating feeling many

Care-Experienced people feel? Or is it about the ownership of their story; never broaching the subject out of fear the two narratives may not run in parallel.

It was the aftermath that brought back that frustration and provoked me to question where and to whom the power belongs, when a story is being told. Several months after the interview with the siblings, the sister called me and asked that their interview recording be erased, saying they no longer wished to be part of the project. This was the first time I had been asked something like this and I was honestly shocked at the request. We spoke for a while and I learned that after our interview, they both felt so encouraged and assured by the experience, it made them want to access their care records.

However, things took a turn for the worst when they received their files. In the *cold opinions* of social workers and foster carers, they were confronted by a vault of disparaging remarks about each of them. They discovered observations that read like insults and condemnations backed by unfounded theories. Although ultimately, what hurt them the most, was reading a version of their history through the lens of others. In their records, they read up on many things we had recorded in our interview. But the events were told in a completely different way, almost opposing. A whole new narrative was placed on their lives and relationship, a narrative they despised.

Aside from revoking their involvement with the project, they told me that their relationship had broken down as a

result of accessing the care records. Until that point, the siblings had a version of their history and story which they had carried forever and had bonded over for almost fifty years. Upon reading their notes and assessments, that history, connection and trust quickly deflated. They cannot look at themselves or each other in the same way anymore.

Care-Experienced people being empowered to reclaim their narrative is vital for their sense of self. When your story belongs to you, it makes you secure in your identity. At *Literati Arts*, we do this through poetry and documenting oral histories; granting Care-Experienced permission to take ownership of their stories, told in their voice and words, with them at the centre. This has the power to make positive change in their lives, and the lives of others. When your story is told by others, as witnessed with the siblings, it has the power to break families apart.

We need to let the saxophone sing.
And when it does, we just need to listen.

Ty'rone Haughton is a Jamaican-born poet, performer and care leaver. He works closely with local authorities and councils, using his knowledge and lived-experience to improve the care and treatment of care-experienced people. He is a published poet, performer and workshop practitioner. He works with a number of arts organisations and theatres across the UK and internationally.

Professional notes: Law & Research

Rapid review of the characteristics and outcomes of children involved in private family law proceedings due to parental separation:

Background & Context

Private law children's proceedings usually refer to court disputes between parents who have separated, disagree about child arrangements, and ask the court to decide who a child should spend time and live with.

Aims

This review aimed to investigate the wellbeing, characteristics and outcomes of children in private law cases.

Methods

Twenty-two studies [reported across 25 different documents] from a range of countries with similar court systems were used in this review. They identified characteristics and outcomes of children involved in private law proceedings. Written accounts of experiences of such children were also included.

Results

Almost all studies addressed mental health and wellbeing of children involved in private law proceedings. They revealed children's experiences of anxiety, depression, anger, eating disorders, signs of post-traumatic stress disorder, self-harm and in some cases, attempted suicide. It is unclear whether these experiences were due to parental separation, court

proceedings, court orders and other factors.

Some studies identified additional factors that were potentially impacted. This included challenging behaviour, child development, friendships and family relationships, schoolwork and harm to physical health and safety. Some accounts also spoke about differing experiences of support from mental health services.

Policy & Practice Implications

This review shows that children in private law cases are at risk of experiencing a significant amount of distress. The findings of this review also suggests that a public health response is needed to identify vulnerable children and provide timely support.

Further research is needed to understand the specific support needs of children in private law proceedings compared to children whose parents separated but did not use courts as well as investigate the short- and long-term outcomes of children in private law proceedings, to inform how their support needs may change over time.

Evidence Centre Public Partnership Group member

<https://doi.org/10.1101/2024.12.04.24318480>

Majority of Family Court cases involve domestic abuse but the system is still not responding:

A damning new report revealed that domestic abuse is “everyday business” for the Family Courts, yet a pro-contact culture and dismissive attitudes towards

victim-survivors are contributing to decisions that may be putting children's safety at significant risk.

The new research led by academics at Loughborough University based on a pilot study across three Family Court sites which reviewed nearly 300 child arrangements case files, live observations of nearly 100 case hearings, as well as focus groups with domestic abuse survivors and interviews with judges, magistrates and Cafcass officers. This provided unprecedented insight into the workings of the family justice system which has, until now, never been comprehensively collected.

The Domestic Abuse Commissioner found evidence of abuse within 73% of hearings that were observed and in 87% of the case files it reviewed.

Despite this prevalence, domestic abuse was frequently not recognised as an 'active issue' or taken seriously with regards to the type of contact children would go on to have with an abusive parent. In more than half of the cases reviewed by the Commissioner, unsupervised overnight contact was ordered.

Survivors repeatedly described how they were dissuaded from raising allegations of domestic abuse due to the suggestion that it would have 'no impact' on whether the abusive parent would be granted contact. Others said they felt pressured into accepting potentially unsafe child arrangement orders out of fear that if they contested, an even worse outcome would be granted.

The Domestic Abuse Commissioner also found evidence of survivors being forced to navigate the complex system without representation. Though legal aid is available for cases involving domestic abuse, survivors are often prevented from accessing this support due to the evidence required to prove they are at serious risk, and the legal aid means test.

Survivors who litigate in person shared how they struggled to put together a case and provide the right evidence, with one survivor describing how she was '*like rabbits in headlights*' and that she ...*said nothing for the first two and a half years*. Others referenced not knowing which forms they needed to complete or how to fill them in correctly, which meant they struggled to get their concerns about domestic abuse onto the court's agenda.

The report highlights how outdated views on domestic abuse amongst some legal professionals saw physical violence more seriously, while coercive and controlling behaviour – which often underpins physical abuse and is an offence in itself - was frequently dismissed. This antiquated thinking, coupled with a severe lack of resources and siloed working has left many survivors feeling unheard, unsupported and unprotected.

While the report exposes significant shortcomings in the Family Courts handling of domestic abuse, it also spotlights how some judges, magistrates, solicitors, domestic abuse services and Cafcass staff are working tirelessly under heavy workloads to shield survivors from further harm. This includes ensuring trauma-informed

approaches are being integrated into proceedings such as implementing protective screens to shield survivors from their abuser and limiting access to information that could be used by the perpetrator.

Despite these positive steps, the Domestic Abuse Commissioner is concerned that the level of reform promised in the wake of the Harm Panel Report – which highlighted deep-rooted issues within the Family Court in responding to domestic abuse and other serious issues – remains largely unfulfilled.

With the UK Government having set an ambitious target to halve violence against women and girls [VAWG] within a decade, the Commissioner is warning that urgent reform will be essential if the family justice system is to play its part in safeguarding victims and supporting the government to achieve this priority. The Commissioner is urging ministers to publish the upcoming VAWG strategy so that this vital work can begin.

Professor Rosemary Hunter from Loughborough University said: *"It is imperative that the review mechanism piloted in this study be continued, in order to maintain accountability, track progress [including the progress made by Pathfinder courts] and disseminate good practices, so that professionals working in the family justice system can better protect children and adult survivors through safer processes and child arrangement orders".*

Professor Mandy Burton, also from Loughborough University, said *"This new research demonstrates that responding*

appropriately to domestic abuse, particularly coercive and controlling behaviour, continues to be challenging for the family justice system, exposing victims to risk of continuing harm. For the first time, the research identifies the scale of the risk, showing conclusively that domestic abuse is frequently raised in the family courts.

Domestic Abuse Commissioner, Dame Nicole Jacobs, said: *"For too long now the Family Court has failed to adequately rise to the challenge of recognising domestic abuse within its proceedings and take sufficient steps to address the serious impact this is having on adult and child victims".*

"No child should be forced to spend time with an abusive parent or caregiver if the circumstances are not safe for them to do so. But time and time again we see how the pro-contact culture and antiquated views on domestic abuse are contributing to decisions that put children in harm's way. This must stop".

"It's clear that domestic abuse can no longer be considered a side issue within the family justice system but instead it is everyday business that demands a rigorous response".

To better protect survivors and deliver the reform promised, ministers must commit to a fully funded national roll-out of the Pathfinder Courts and the removal of the presumption of parental contact to ensure decisions are taken in the best interest of children.

The Domestic Abuse Commissioner went on to say that ... *"The government must also provide the necessary*

investment to extend the pilot study conducted by my office, to allow for rigorous oversight on the changes being made and ensure accountability from within the Family Court. Tinkering around the edges will no longer suffice".

Press Release – Domestic Abuse Commissioner
October 2025

Book Review – *Klara and the Sun*
by Kazuo Ishiguro.

Kazuo Ishiguro [*Remains of the Day* & *Never Let Me Go*] takes us into the not-too-distant future where genetic engineering and artificial intelligence collide. He creates a heart-warming narrative about the trials and tribulations of adolescent love and aspiration against the constant prospect of separation and loss.

Klara is an 'artificial friend' who vies for the attention of young people passing the store. The manager allots the most favoured, sunniest window space facing the street in rotation with other models of the same manufactured series. They are solar-powered and seek out the sun's warmth and light. However, Klara has learnt to develop values and beliefs about the power of the sun. She is the most mindful of her series and is bought to befriend and advise Josie, a mid-teenager with an ailment which could prove terminal at any given time. Josie has already lost an older sibling to the same illness.

Josie had been '*lifted*' as opposed to Rick with whom she had grown up through childhood. There is no clear

explanation of what being *lifted* entails but the implication is of pre-birth genetic tweaking to improve intellectual capacity. Rick and Josie have been neighbours in rural isolation and their strong attachment provides resilience to the adversities of their respective family lives.

As the uncertainty around Josie's prognosis unfolds, it becomes apparent that Klara is being considered as a replacement in the event of her death. The novel explores the impact of Klara on the relationship between Josie and Rick, and her parents. Meanwhile, Klara remains convinced she can facilitate a cure for Josie by appealing to the sun's benevolent nature. She too has been warned about how precarious her own existence will be, based on trust in humans.

This is a sensitive portrayal of youthful hopefulness under pressure to make the right decisions for a happy and successful life. Klara enters this world as an observant, open-minded empathetic outsider, trying to make sense of the meaning behind human interaction. In many ways, someone who you would expect to be the most logical character pursuing an irrational solution.

Paul Walker
Bank Worker – Family Court Adviser

Letters to the Editor – nothing yet

This was a new addition to the Journal, introduced in the Summer Edition 2025. It provides an opportunity for open letters to be sent to the Editor for publication. Correspondence can be

anonymous and refer to any relevant subject that the writer wishes to raise. See page [2] for editor contact details.

And finally.....

A couple of poems -

Childhood's Garden

In streets where heavy metals rest,
Themselves in lungs, a scent of roses
holds me with the flick of memory's
switch.
Damp earth, daisied lawns, bees heavy
in the air,
Soft milk skin in layered skirts brushing
by as I lie within the buzzing beans,
A mottled canopy enclosing me in
green, the ecstasy in my mother's
mewing exhalation,
As each thorned stem is gently
released.

Mind Flight

Closed up tightly in his thoughts
are butterflies and astronauts
and all the myriad things that fly
in and out of his mind's eye.
He dwells on leaves that fall from trees
on chaffinches and bumblebees,
sees the planets round the sun,
knows their movements, every-one.
He sees the moth drawn to the light
he sees the star-fall with delight
his hands reach up to catch a cloud
then sighs his disappointment loud –
but rarely does he speak a word
for fear his thought should be
disturbed.

Caroline Vero

A Musing..... drawn by Peter Brooks



The Editorial Board invites anyone reading this Journal to make contact, submit an article, send in details of a case [redacted] or relevant experience, an interesting or controversial judgment, concerns about practice, or commentary relating to codes and conditions of service, positive or negative. Book or film reviews that link in some way to our role are always welcomed, news about meetings, lectures, seminars, or training courses can be of interest. Submissions can name the author, be anonymous or sent as suggestions for the Editorial Board to undertake further research and create an article from the idea sent in. Anything submitted can be very brief or longer, serious, light-hearted, or

even a quip. Cartoons are also welcomed.

The Family Court Journal is for all colleagues within Cafcass and further afield working with children and families, on the frontline or behind the scenes. The Journal strives to provide an interesting read that informs, educates, enthuses, entertains and most of all unites colleagues. It is also intended to stimulate new professional /Trade Union membership within Napo Family Court Section so please feel free to signpost /send on a copy of the Journal in the hope that colleagues who have not yet become members will see that Napo is a credible, worthwhile, and focused union that works hard for the benefit of its membership.

The Family Court Journal needs to have a wide range of articles in each publication which will hopefully be produced at least biannually. However, this will only happen if sufficient material is received. The Editorial Board is doing its best to create articles, but it is hoped everyone will become equally invested. Time, commitment, and confidence are the key elements to creating a flow of ideas.