

**BEDFORDSHIRE LOCAL SAFEGUARDING CHILDREN
BOARD EXECUTIVE SUMMARY**

**INDEPENDENT REVIEW
CHILD A and CHILD B
PLACED WITH FAMILY AT IMMIGRATION REMOVAL
CENTRE**

June 2010

1. INTRODUCTION

1.1 At the time of this case in 2009, there was a single Local Safeguarding Children Board for Bedfordshire. That board was concerned with ensuring the safeguarding of all children living within its area. It does not take a view on the detention of children with their parents for immigration purposes. The partner agencies work within existing legislation.

1.2 On 20/9/09 there was an incident at an Immigration Removal Centre (IRC) in which two 5-year-old boys, Child A and Child B, were found to be engaged in sexual activity. It was later alleged that Child A had been the subject of further sexual assaults, committed by one of Child B's two older brothers, Child F, aged 15 and Child G, aged 11.

1.3 The concerns raised by these matters were investigated to some extent by some agencies but those investigations were inconclusive. All the children involved, and their families, were subsequently removed from the UK.

1.4 This matter came to the attention of the former Children's Commissioner, Sir Al Aynsley Green, and was referenced in his publication of February 2010¹

"Examination of case number 21(c) family's detention medical and welfare records revealed what appeared to be an allegation of sexually harmful behaviour between unrelated young children within the family unit. Our further investigation of additional management records raised questions regarding whether the incident had been fully investigated and whether the local authority's safeguarding procedures had been implemented. Records showed that repeated requests from the victim's mother for independent investigation and medical examination had been refused. Our detailed report on this matter has been submitted to UKBA, SERCO, Bedford Borough Council and the Bedfordshire Safeguarding Children Board for further review."

1.5 At a meeting of the Executive Serious Case Review Panel (ESCRP) of the Bedfordshire Safeguarding Children Board² on 7 October 2009, it was decided that there should be an Independent Review of the circumstances of this case. It was unclear at that stage whether the criteria for a Serious Case Review had been met, due to the lack of information available. It was subsequently, formally concluded that those criteria had not been satisfied, and an Independent Review was appropriate.

¹ The Children's Commissioner for England's follow up report to The Arrest and Detention of Children Subject to Immigration Control

² NB Bedfordshire LSCB has now been replaced with two new LSCB's – that of Central Bedfordshire and Bedford Borough in line with the creation of two new unitary authorities, from April 2010

1.6. The agencies to be involved in that Review were as follows:

Central Bedfordshire Council (CBC), Emergency Duty Team (EDT)
Bedford Borough Council (BBC), Intake & Assessment Team (I&AT), Independent Social Workers (ISWs)
Bedfordshire Police
Serco/Serco Health
United Kingdom Borders Agency (UKBA) Contract Service Unit (CSU) Family Detention Unit (FDU) Office of the Children's Champion (OCC)

1.7 As the children and their families are no longer in the UK, it has not been possible to involve them directly in the process of this review.

1.8. As well as those participating in the Review as outlined in the table above, the following agencies will be notified of the outcome of this Review:

- Government Office East
- Department for Education (formerly Department for Children Schools and Families)
- Her Majesty's Inspectorate of Prisons
- Chief Inspector of the United Kingdom Border Agency
- Ofsted
- Children's Commissioner for England
- Prison and Probation Ombudsman
- East of England Strategic Health Authority

2. METHODOLOGY

2.1 An independent chair of the Review was appointed whose background included specialist experience at a national level in work with children detained in institutions.

2.2 It was agreed that a legally qualified person, independent of all the participating agencies, be appointed to conduct the review. A Barrister and Mental Health Review Tribunal Judge was appointed on December 10th 2009. Another reviewer who has extensive experience of conducting Serious Case Reviews in respect of children and vulnerable adults assisted the independent author in the drafting of the reports.

2.3 A Review Panel was constituted, to steer the Review and ensure that the final report was of a satisfactory standard. An independent barrister was appointed as legal adviser to the Review Panel. The full agency membership of that Panel, which met on 4 occasions, was as follows:

Independent Chair, Bedfordshire LSCB, Bedfordshire Police, CBC, BBC, UKBA, SERCO, and NHS Bedfordshire – Also in attendance were the independent reviewer and independent legal adviser.

2.4 The independent reviewer conducted interviews and examined a large number of documents. The participating agencies were asked to verify the factual content of the review report. They were not asked to comment on their own practice or any aspects of their involvement in this case.

The judgments contained within this report are therefore those of the report author but have been discussed with all members of the Review Panel.

2.5 The report was submitted to the Executive Serious Case Review Panel of both Central Bedfordshire and Bedford Borough LSCB's on 30th April 2010 having been finalised by the Review Panel on 22nd April 2010.

3. THE FAMILIES

3.1. Child A is the oldest of three children of Mrs D. The family came to the IRC in August 2009. They were subsequently removed from the UK after the events considered in this review.

3.2 Child B is the youngest of four children of Ms H. The family were detained at the IRC on three occasions for short periods, in 2008 and 2009. They were removed from the UK after the events considered in this review.

3.3 It is always difficult to ensure that “the voice of the child” is heard and adequately represented in review reports like this. That requirement becomes even more difficult when the principal subjects of the review are very young. Furthermore, in this case, all the children discussed in this report have been removed from the UK. We fall back on the report of the Children’s Commissioner which reminds us that

“The Children Act 2004 ...requires the Commissioner to have particular regard to groups of children who do not have other adequate means by which they can make their views known”

and notes that, in respect of safeguarding arrangements,

“Some ...cases are cause for serious concern and we will continue to demand evidence that safeguarding arrangements and policies meet national standards”.

4. EVENT THAT LED TO THE REVIEW

4.1 The matters leading to this review took place in the autumn of 2009. Two five-year-old boys were observed engaged in sexualised behaviour at the IRC. It was subsequently alleged that one of the boys, Child A, had been sexually assaulted on previous occasions by an older brother of the second child, Child B. Operational staff at the IRC reported this immediately to senior officers within the IRC.

5. SUMMARY OF KEY FINDINGS AND CONCLUSIONS

5.1 There are four key findings in this Review. **Firstly**, the lead child protection agencies, the local authority Children's Services, received information which included evidence of young children, below the age of criminal responsibility, engaged in sexual activity. This should have triggered complex enquiries in respect of two families, under section 47, Children Act, 1989 but the authorities did not respond appropriately.

5.2 The local authorities' managers and social workers misunderstood the significance which should attach to the age of criminal responsibility in such circumstances. They took the view, in error, that their enquiries into the adequacy of safeguarding arrangements for these children could be limited by the fact that the children could not be the subject of criminal charges. They also misunderstood the concept of "consent" believing in error that such young children could be consensually involved in sexual activity. Furthermore, they failed to investigate concerns that older children may also have been involved in the sexual abuse of a child, and that these older young people might pose a continuing threat to other detainees.

5.3 The local authority social workers did not interview the mother of a child said to have been abused, failed to liaise adequately with other agencies and did not carry out appropriate checks with other localities. Importantly, the local authorities did not make adequate efforts to secure police involvement in the enquiries.

5.4 Non - specialist police did receive information about the situation, as a result of Ms D's complaints, but they inappropriately terminated police involvement without reference to officers with a specialist child protection background.

5.5 Ms D expressed continuing concern about the investigations which had been carried out, but her concerns were, effectively, dismissed by all the agencies involved.

5.6 One of the children involved in this situation was seen by a GP from the company employed to deliver some health services to families in detention. The GP failed to recognise that this was a child protection situation and that as such action should have been guided by child protection procedures. After discussion with other professionals, the GP appeared to take an incorrect view that the child should not be seen by a paediatrician.

5.7 **Secondly**, the arrangements for safeguarding and promoting the welfare of children in detention include the provision of an Independent Social Work Service. This is a separate source of additional social work provided by Bedford Borough Council, through grant arrangements with UKBA. This Service did not challenge the weaknesses and confusion inherent in the approach of the local authorities and GP. This raises concerns about the effectiveness of these arrangements and suggests the role of the workers within the Service should be reviewed.

5.8 **Thirdly**, and similarly, the provision of another tier of social work involvement provided through the Office of the Children's Champion within UKBA, did not provide any further support to the children in this case in terms of challenging the decisions made by local statutory agencies.

5.9 The agencies directly involved in immigration detention, UKBA and SERCO properly took their lead from the local authorities, and their actions should be seen in that light. However, they have a statutory responsibility to exercise safeguarding arrangements. Those arrangements were ultimately ineffective and relied too heavily on the input and decisions of other agencies.

5.10 SERCO's internal "Keeping Children Safe from Harm" (KCSH) arrangements and documentation could usefully be reviewed and updated, to ensure that it keeps pace with national safeguarding guidance and initiatives, such as the Common Assessment Framework.

5.11 UKBA provided information, on the basis of which a ministerial decision was made affecting the continued detention of children. Although that factual information included reference to the incident leading to this review, there was no evaluation of the impact that this incident had on the propriety of detention.

5.12 None of the agencies involved in this case gave adequate weight to the particular inherent vulnerability of children in detention, nor to the issues of diversity affecting these children and their families.

5.13 **Fourthly**, this review highlights a gap in regulatory arrangements. It appears that no single agency has an adequate overarching responsibility for regulation of services to children in immigration detention.

6. RECOMMENDATIONS

6.1 The review made detailed recommendations to all the participating agencies and to the Bedford Borough Council Local Safeguarding Children Board that have been accepted and each agency has produced an improvement plan to respond to the review. The high-level recommendations are below and form the basis for a multi-agency action plan, which is being monitored by all the LSCB partner agencies.

BEDFORD BOROUGH SAFEGUARDING CHILDREN BOARD

6.2 The Board should

- a) ensure that there is a co-ordinated action plan for dealing with the recommendations from this review to the participating agencies.
- b) ask the National Safeguarding Delivery Unit to liaise with the appropriate government Departments about the lack of any clear

regulatory framework to ensure the welfare of children in immigration detention.

- c) establish new arrangements to report to its Strategic Board specifically on the Immigration Removal Centre, in line with the recommendation from the previous Children's Commissioner in his most recent report.
- d) ensure that all appropriate staff understand the need and purpose of the initial assessment process as identified in *Working Together to Safeguard Children 2010*
- e) update guidance and disseminate to all appropriate staff as to when the use of Achieving Best Evidence interviews is appropriate, and when it is not. The consequences of such choices should be clear.
- f) consider the need for further training for relevant staff:
 - to understand and respond appropriately to the significance of the concepts of "consent" and "age of criminal responsibility" in relation to child protection, and in particular to sexual activity between children.
 - to ensure that staff are aware of the need and purpose of medical assessment rather than just medical examination

BEDFORD BOROUGH COUNCIL AND CENTRAL BEDFORDSHIRE COUNCIL

6.3 The local authorities should:

- a) investigate why child protection procedures were not complied in this case with and take action as necessary
- b) satisfy itself that Emergency Duty Team and Intake & Assessment managers and staff are sufficiently skilled and knowledgeable to recognise and respond appropriately to complex child protection referrals

BEDFORDSHIRE POLICE

6.4 Bedfordshire Police should

- a) ensure that staff who do not have specialist knowledge of the police's responsibilities in relation to child protection are able to recognise matters which should be referred to specialist staff, and do so.

RECOMMENDATIONS TO SERCO

6.5 SERCO should

- a) ensure that it can discharge its specific duty to safeguard and promote the welfare of children, in a way that is not solely reliant on other agencies, and includes an assessment of a child's welfare needs and any risks posed to or by that child.
- b) review arrangements for joint working with Bedford Borough Council to ensure that there are clear systems for feedback to residents of the IRC detained with children, the outcome of any BBC involvement, including options for taking the matter further if the resident remains dissatisfied.
- c) review the form and use of Keeping Children Safe from Harm documents. The review should take account of the Common Assessment Framework.

RECOMMENDATION TO SERCO HEALTHCARE

6.6 SERCO Healthcare should ensure that medical practitioners and other health staff providing services at the IRC are aware of their responsibility to ensure they are familiar with and follow local child protection arrangements including the need to consult a paediatric specialist.

RECOMMENDATIONS TO UKBA (CONTRACT MANAGEMENT TEAM THE OFFICE OF THE CHILDREN'S CHAMPION AND FDU)

6.7 UKBA should

- a) ensure that those making decisions about the appropriateness of continuing to detain children suspected of having experienced harm within the detention estate are fully aware of the assessed needs of the children, so that they are in a position to evaluate how their needs impact on their continuing detention, and their placement within the detention estate.
- b) UKBA should review with Bedford Borough Council the arrangements for the involvement of its professional advisors in specific child protection cases in the IRC, to enable them to give reassurance to UKBA that there is appropriate multi agency support for safeguarding of any children concerned.
- c) consider whether the present arrangements meet their obligation under S55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote the welfare of children.

APPENDIX 1 – TERMS OF REFERENCE

The following Terms of Reference were set for this Review

“To highlight any learning from this case which would improve safeguarding practice within and between agencies and to highlight good practice that can be built on. To identify any safeguarding concerns regarding current policy and practice for local agencies, for UKBA in relation to centres where children and young people are detained and for government with regard to detention policy and practice and regulation of detention services for children and young people

1. The Review should consider the implications of the incident occurring within an institutional setting and determine whether UKBA has taken steps to ensure that the environment of the IRC is safe for children and young people in respect of sexual abuse.
2. During the course of the Review all agencies to consider the information carefully and act decisively on any indication that the environment of the IRC or any aspect of the environment places children and young people at risk of abuse.
3. To determine the involvement of the agencies concerned in the events that occurred, the decisions that were made or actions taken and to make every effort to understand and contextualise the reasons why events unfolded as they did and why decisions and actions were made and taken or not.
4. To determine whether the agencies had in place policies and procedures for safeguarding and promoting the welfare of children and whether there were any failings in the policies and procedures themselves or in the implementation of policies and procedures.
5. To consider whether the staff involved in this case were knowledgeable and competent in identifying and responding to the incident – was appropriate expertise, supervision and management evident and did actions accord with decisions made?
6. To determine how well in this case were the needs of and potential risks to all the children involved identified and how well were the children and the parents engaged in this process?
7. To determine whether there were there any issues that are peculiar to the unique position of the IRC that had an impact on the events, decisions and actions in this case made by all agencies involved.

These may relate to the provision of social work services under contract, the regulation and inspection of children’s services in the IRC, the existing regulation and inspection framework (Ofsted and HMIP), arrangements for the

investigation of complaints or incidents (the PPO), arrangements for quality assurance of service provision in the IRC, implementation of safeguarding policies and procedures and decision making. To consider whether the safeguarding service provided for children within the IRC was equal to that provided to children living within the community.

8. To ascertain and define the legal obligations and duties of each agency involved and the LSCB.
9. To examine the relationship between local services with an interest in the IRC and those operating at a national level. This would include the relationship between 'home' authorities and Bedford Borough.