

# THE DEPARTMENT OF EDUCATION

## *CONTACT ARRANGMENTS FOR CHILDREN: A CALL FOR VIEWS*

### COMMENT AND RESPONSES

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### INTRODUCTION

The comments I make in this response to the DoE/Narey document are based on the following areas of training and experience:

1. Qualification in 1976 as a psychiatric social worker, and work in child/family and adult psychiatric services.
2. 1980–2001: practitioner and manager of independent assessment and therapeutic services provided by the NSPCC.
3. Qualification in 1991 as a counsellor. Provision of counselling and family therapy services via the NSPCC for parents/children/families – including a large number of adopted adults and adoptive parents.
4. PhD by research obtained in 1996 for a study of helpful/unhelpful experiences of counselling/psychotherapy of adults who were abused as children. Many participants had been adopted.
5. Further research studies focused on a) the child protection assessment process in cases of serious injuries to infants; and b) parents' experiences of child protection services.
6. 2002–present: Provision of expert witness risk/parenting/family assessments in complex care proceedings cases throughout England and Northern Ireland. Issues regarding contact arrangements with children were central to many of these cases.

## STRUCTURE OF THIS RESPONSE TO THE DoE/NAREY DOCUMENT

My response is in four parts:

1. Comments on specific paragraphs in the DoE/Narey document.
2. Additional general comments on the DoE/Narey document.
3. Elaboration on specific adoption/contact issues.
4. Responses to the 15 DoE/Narey draft proposals.

### 1. COMMENTS ON SPECIFIC PARAGRAPHS IN THE DoE/NAREY DOCUMENT

- 1.1 Paragraph 2; “...contact arrangements should in all cases be determined by the needs of the child and what is in their best interests.” Quite so; but there are major philosophical, theoretical, political and cultural differences as to what constitutes a child’s “best interests”. Such differences are apparent throughout the history of childcare literature, and dominant viewpoints rise and fall. The field of child protection in general, and specifically permanent separation/adoption, is permeated by variations and polarities of apparently reasonable opinion. Over time the social policy pendulum has swung back and forth across the continuum that has “family preservation” principles at one pole; and “child rescue” principles at the other. Each position is internally logically consistent and can call on research to support its belief systems (as to what is “best” for children). Notably each paradigm/mindset when implemented gives rise to unintended negative consequences (which may only become apparent over time). (Dale 1998; Dale et al. 2005). The excellent books by Fox Harding (1991/1997) “*Perspectives in Child Care Policy*”; Tzeng et.al (1991) “*Theories of Child Abuse and Neglect: Differential Perspectives, Summaries, and Evaluations*”; and Crenshaw (2004) “*Treating Families and Children in the Child Protective System*” remain very relevant as crucial theoretical context to the issues raised in the DoE/Narey document.
- 1.2 It would have been very helpful for the DoE/Narey document to have acknowledged and considered this historical social policy context, as the DoE/Narey proposals represent and fit clearly into the “child rescue” adoption paradigm and culture; without reference to the wider context (and the disadvantages and unintended consequences that arise from that stance). In essence, what the DoE/Narey report recommends is a reinforcement of “child rescue” principles and practices that in the 1940s–1960s saw thousands of children in state care being forcibly emigrated to places such as Australia, Canada and South Africa without the knowledge of their parents (and without any continuing contact). Of course, at the time, the agencies involved (including Children’s charities such as Barnardos) considered that this was “in the best interests” of these children. History informs us otherwise (Humphrey 1996).
- 1.3 It is of note that compulsory adoption, and adoption without contact, is anathema in Australia and New Zealand because of the history of mass forced adoption of

Aboriginal and Maori children known as the “*Stolen Generation*” (<http://reconciliation.org.au/nsw/education-kit/stolen-generations/>). The South Australian government formally apologised on 18 July 2012 for this history of forced adoption. The following notice appeared in the South Australian press on 14/7/2012:

**Government of South Australia: Forced Adoption Practices.**

“On behalf of the South Australian Government the Premier, the Hon Jay Weatherill MP, will deliver a formal Apology to mothers and fathers whose children were removed because of forced adoption practices from the past, and to people who were separated from their parents as infants as a result of those practices. The Apology will be delivered at the South Australian Parliament from 11am on Wednesday 18 July 2012.”

- 1.4 I predict a UK government apology for recent and current practices of forced adoption in about 30 years time.
- 1.5 In this context, the proposals in the DoE/Narey paper are technical measures to further implement “*child rescue*” principles, policies and practices. In my view, a broader theoretical perspective is required to ensure that the proposed changes do not have adverse outcomes and unintended negative consequences. In the comments that follow, I attempt to provide such a wider perspective.
- 1.6 Paragraph 2 of DoE/Narey document: This raises a further comment on the “*best interests*” of children dilemma: In my view it is vital that policies and practice relating to the “*best interests*” of children are clear and specific about the timescales involved. What is the social policy priority – the “*best interests*” of a child during childhood; or the lifelong “*best interests*” of a child? It is my experience that the “*child rescue*” mindset focuses on short-term outcomes during the relatively narrow lifespan of childhood. In my view, the social policy priority should be consideration of the child’s lifelong “*best interests*”.
- 1.7 Paragraphs 2 & 24 of the DoE/Narey document: It is stated that children may be subject to further abuse during contact with natural parents; but it is not acknowledged that nontrivial numbers of foster and adoptive parents also abuse such children. In addition to a folder of press cuttings about such cases, I have had recent professional experience of a baby (adopted because of neglect by natural mother) then being very seriously physically abused by an adoptive parent. Adoption is not a panacea.
- 1.8 Paragraph 20 of DoE/Narey document: “...*we should like to propose that a good starting point might be that children under two are rarely exposed to contact more than 2 or 3 times a week and for sessions of no more than 2 hours.*” It is clear to me that this proposal stems from the research by Kenrick (2009, 2010); and Humphreys and Kiraly (2009, 2010) – which has already been relied upon by the Family Justice Review, without any critical scrutiny. On that basis, it is important to consider this research in some detail.
- 1.9 The Family Justice Review Interim Report (Ministry of Justice, March 2011) addressed a wide range of issues concerning the efficacy and cost-effectiveness of systems and services aimed at protecting children and (hopefully) supporting

families. Such reviews (like the Munro Review of Child Protection published in May 2011) depend on evidence submitted by interested parties and relevant published research; and the review process in such a complex area is undoubtedly daunting. However, given the significance of the issues at stake – particularly in court cases that could result in the compulsory adoption of children – it is vital that Family Justice Review, and DoE/Narey recommendations stem from research that has been considered very carefully. I have concerns about recent research – quoted with uncritical approval by the Family Justice Review Interim Report – that frequent contact between infants separated from their natural parents during child protection proceedings may be inherently harmful to their development and well being. The Report states, at paras 4.61 & 4.62:

4.61 During long proceedings, children will often be cared for outside the family home, for example in a temporary foster placement, but will continue to have contact with their birth family. For understandable reasons, courts frequently order high levels of contact – small children and babies may have contact with parents during proceedings as frequently as five times a week for several hours at a time, often involving considerable travel for the child.

4.62 These arrangements can be damaging for children. Recent studies give detailed accounts of the stressful and negative impact on infants of high levels of contact during care proceedings. They expose the distress that infants often experience during the daily contact sessions, the disruption to their daily routine and the impact of often long-distance transport arrangements on the infant. This disturbance can last throughout proceedings causing distress to both infant and carer.

1.10 The references accompanying these comments are:

i) Kenrick, J. (2009) Concurrent planning: A retrospective study of the continuities and discontinuities of care and their impact on the development of infant and young children placed for adoption by the Coram Concurrent Planning project, *Adoption and Fostering*, 33(4) pp. 5-18

ii) Kenrick, J. (2010) Concurrent Planning (2) ‘The rollercoaster of uncertainty’. *Adoption and Fostering*, 34(2) pp. 38-48

iii) Humphreys, C. and Kiraly, M. (2009) *Baby on Board: Executive Summary: Report of the Infants in Care and Family Contact Research Project*, University of Melbourne

1.11 These studies merit more detailed consideration than has been given to them by the Family Justice Review Interim Report, or the recent article in *Family Law* (Schofield & Simmonds 2011). Also, the Family Justice Review Interim Report appears not to have considered alternative research perspectives and conclusions. The 2010 Family Justice Council *Conference on Infant Contact* (with only one dissenting voice) expressed interest and approval in moves to limit parent–infant contact based on these two research studies. One participant even went so far as to welcome the

impact that reductions in public service resources will have on reducing the ability of local authorities to promote frequent contact:

*“...current resource constraints might actually be in the children’s interest. If frequent contact cannot be arranged due to lack of resources and the parent isn’t really fulfilling the child’s needs then maybe this is the one time where certainly the current trends may be doing something for children.” (Dr Danya Glaser, Infant Contact: Family Justice Council debate and panel discussion (8/12/2010))*

## THE KENRICK RESEARCH

- 1.12 This was a small-scale study involving parents who adopted children through the *Coram Adoption Agency Concurrent Planning (CP) Project*. The author conducted interviews with 26 adopting parents who had had infants placed with them between April 2001 – October 2005. The interviews took place between February 2006 – July 2007.
- 1.13 Concurrent Planning projects originated in the USA in the 1980s to prevent children ‘drifting’ in insecure substitute care placements. Babies involved in such projects have been removed (often at birth) from their natural mothers, and are placed with prospective adoptive carers who will ultimately adopt them if efforts aimed at reunification to their natural parents are not successful. In theory intensive resources are devoted to promoting reunification whilst, if not successful, the infant already is forming close bonds/attachments with substitute carers which will become permanent. One of the criticisms of concurrent planning however is that the intensive services to promote reunification are often notable by their absence, and that the initial placement with the CP carers represents a *fait accompli*.
- 1.14 The *Coram Adoption Services Concurrent Planning Project* was developed in 1999. Twenty-six adopting parents were identified by the Coram agency to take part in the research, and all had to live within a 20 mile radius of the agency in central London (although this was later extended to include the wider area within the boundary of the circular M25 motorway). Twenty-seven infants were involved in the study and Kenrick noted that the majority of these had had two previous foster placements before being placed with the CP prospective adoptive parents. During the concurrent planning assessment phase, 23 of these infants had continuing direct contact with at least one natural parent (the other four had no continuing direct contact with a natural parent during the concurrent assessment phase).
- 1.15 Only one out of the 27 infants was reunified to a birth parent. This is an extremely low reunification rate of 3.7%; compared, for example, with a reunification rate of 39% for a similar sample of natural parents reported by the Wells St (London) *Family Drug & Alcohol Court Evaluation Project* (Brunel University, Final Report, 2011). The natural parents of the 27 infants in the Kenrick study were a group with a high rate of serious drug/alcohol addictions: 14/23 in the group of parents who had a degree of continuing contact during the CP assessment phase (and all four in the group with no continuing direct contact). Consequently, of the natural parents as a whole 18/26 (69%) had serious continuing drug/alcohol problems. A significant (but unstated) proportion of the infants appear to have been born

suffering the effects of pre-natal drug/alcohol exposure (and a number had to experience a hospital detoxification at birth).

- 1.16 It is important to be aware that this is a natural parent sample with specific severe problems (drug/alcohol addiction) – and the sample is not representative of natural parents as a whole, who have had babies/infants removed from their care for varied other reasons.
- 1.17 The major focus of the Kenrick research is the impact on the infants of continuing contact with their natural parents during the CP assessment programme. Kenrick records serious concerns expressed by CP carers (that is the prospective adopters) that the infants during the CP assessment programme had continuing contact with their natural parents “*up to 5 times per week*”. Apparently (and in my view very surprisingly) notwithstanding where the infants were living with their CP carers (within the very large M25 boundary) all contact sessions between the infants and their natural parents had to take place in a portacabin at the Coram offices in central London. Not surprisingly, this involved a great deal of traveling for the infants and their prospective adoptive parents (about which the latter expressed great concern).
- 1.18 The primary focus of the Kenrick study is on the retrospective views of adoptive parents of the CP assessment process. The adoptive parents as a group were strongly of the view that much of the continuing contact with natural parents had not been beneficial for the child; that such contacts had been too frequent (and had begun too soon after placement); and that the journeys to and from contact diminished the ability of the infant to enjoy the ‘continuity’ of the prospective adoptive home.
- 1.19 It is on this basis that Kenrick questions the frequency and benefits of high levels of on-going contact between natural parents and their separated children prior to a court decision being taken about the long-term future of the children. Such a view is already taking root within statutory social work services in England and N. Ireland, with such research being cited as justification for significantly limiting natural parent/child contact.

#### LIMITATIONS OF THE KENRICK RESEARCH

- 1.20 Methodologically there are limitations to the Kenrick research that restrict the value of its conclusions a) with regard to social work policy regarding natural parent/infant contact; and b) influencing opinion about the value (or not) of such contact in any individual case. I shall outline five particular methodological limitations.
- 1.21 1. Independence of the researcher. The researcher/author Jenny Kenrick is described as: “*an Honorary Consultant Child Psychotherapist in the Child and Family Department at the Tavistock Clinic, London*”. The two published papers in the journal *Adoption & Fostering* do not make any reference to the association between the Tavistock Clinic (as the researching body) and the Coram Adoption Agency (the service being researched). It is not clear from the published papers to what extent (if any) the researcher has previous links with the Coram agency. However in

response to my enquiry, the author stated that she had been the Tavistock representative on the Coram Adoption Panel until 2006 (Kenrick, personal communication, May 2011). This should have been made clear in the publications, as it indicates that the researcher and the researched have had previous association in other roles including a shared theoretical perspective that may have affected the design, implementation, analysis and conclusions of the study.

- 1.22 2. Research commissioning. An associated question relates to how the research was commissioned, financed, managed and peer-reviewed. In response to my enquiry the author clarified that the research was self-financed following her employment at the Tavistock Clinic but was “*neither commissioned nor funded, other than with a small grant from the Tavistock and Portman NHS Trust towards travel*” (Kenrick, personal communication, May 2011). The question stemming from these two points that should have been addressed in the publications is: Given the historical close association between the Tavistock Clinic and the Coram Adoption Agency – how neutral and independent was the researcher in this study?
- 1.23 3. Sample selection. A limitation of major significance is that the Kenrick research focused only on the retrospective views of the 26 adoptive parents (apart from some input from the only mother in the sample who had her child returned to her care). There is an almost total absence of perspective from the natural parents as a whole, from extended family members, other professionals involved, and from case records. Social work policy on the advantages and disadvantages of different levels of contact between natural parents and their separated children should not be based on the retrospective views of adopting parents alone. The adopting parents have a specific agenda, in that they were the beneficiaries of the natural parents’ failure in the CP assessment process. The author describes how grateful the adoptive parents were as a group to the Coram agency; and such benefit, dependence and gratitude does not provide a good methodological basis for dispassionate analysis of complex issues.
- 1.24 A second concern about sample selection is that the researcher allowed the Coram agency to exclude five cases from the sample being interviewed and studied. No explanation is given for this except that it was at the “*discretion of the project organiser*” (p7). Further information about this process of exclusion is needed to clarify that this did not result in a skewing of the findings in any particular direction, thus contributing to a bias in the analysis. From a qualitative research methods perspective, an analysis of the views of the five excluded cases would have been both valuable and pertinent.
- 1.25 4. Observations of contact. The reason why the babies/infants in this study had such long journeys to and from contact sessions with their natural parents is because all contact sessions were required to take place at the Coram agency in central London. Apparently, also, all contact sessions for all of the cases were observed (and assessed) by a single Coram agency professional. However, no information is provided about this observer; and there are no separate independent observations of the nature and quality of the contact sessions.
- 1.26 Experience shows that different observers may make very different observations of parent-child contact sessions, and draw differing conclusions about the quality of parent-child relationships (including attachment). This study is wholly

dependent on the observations of the Coram adoption agency worker with regard to natural parent/child contact sessions. At the very least, the neutrality of such observations (in the context of a potential pro-adoption bias) can be questioned.

- 1.27 The author does not question the practice of requiring babies/infants to undertake the long journeys to the Coram agency for contact sessions with natural parents. The fact that the infants were said to be tired and distressed from such journeys highlights that the venue for contact was not appropriate for the infants. It is difficult not to form the impression that the long journeys these infants had to endure were primarily for the convenience of the Coram adoption agency. To what extent might some of the negative observations of natural parent/child contacts have been more positive if contact had been facilitated in natural surroundings local to the infants' current carers' homes? What was the negative impact on the natural parents (e.g. anxiety or even intimidation) of being observed in contact sessions located in the very agency that they knew was working toward the adoption of their child?
- 1.28 Travel time and stresses for infants from contact should not be an issue for most infants in the UK. In the Australian study (Humphreys & Kiraly 2009), much was made of this, as sometimes the distances between the foster carers and the natural parents were indeed huge. Kenrick made a similar point about stresses on infants having to travel for contact across congested Greater London for contact. There are several critical points to be made about this.
- 1.29 First, I have already commented on the practice in the Coram Adoption Agency of requiring all contacts to be in a portacabin at the Coram Agency central London base. Why was it required that infants travel from anywhere within the M25 to the Coram agency for contact? Why could contact not have been arranged at a comfortable venue located in the concurrent carers' locality? The problem here is not the travel itself, but the unreasonable requirement of the Coram agency that contact take place on its own premises.
- 1.30 Second, such concern about travel distances and times in central London is not generalisable to much of the UK. Cases in Bristol, Basingstoke, Brighton, Belfast, Barry, Balmoral, Bradford or Bournemouth, and most towns and cities, do not have transport delays and congestion on the scale of London. Third, foster carers should be recruited and rewarded on the basis that the role includes (when appropriate) facilitating natural parent contact in their own homes, totally avoiding the need for infant travel. In my experience this does occur in a small proportion of cases, and it can be very effective. The potential for it to do so in a higher proportion of cases (but by no means all) is an untapped resource (particularly in Northern Ireland where it is virtually unknown in the context of a very rigid and restrictive fostering culture).
- 1.31 Fourth, no baby or infant (or indeed any child) should be collected and taken to contact (no matter what distance) by professional strangers. I recall a recent highly contentious case where a succession of contact supervisors who were strangers to a little girl, began calling at the foster home to take her to contact. The girl expressed anxiety about leaving the foster home. The local authority interpreted this as the child communicating that she did not want to see her natural parents. Not using strangers to transport children to contact sessions is a matter of basic

professional good practice and minimal standards. Such practice, when it occurs (for resource or other reasons) should be firmly challenged by Children's Guardians, Independent Reviewing Officers and the court as being harmful to the child's well being and completely unacceptable.

- 1.32 5. Partial perspective. Finally, Kenrick does not present any information about the 'other side' of the concurrent assessment process, that is: "...a scheme in which both rehabilitation to birth parents and adoption would be worked on concurrently, with intensive resources deployed for each alternative". (2009 p.5). If, as this study and that of Humphreys and Kiraly (2009) suggest, it is the case that higher levels of direct natural parent/child contact do not correlate with a higher potential for reunification – it is vital that such researchers provide significant detail and analysis of the nature of the "intensive resources" that were provided to promote reunification. Kenrick is silent on this matter. Sadly, this supports a widespread suspicion that *concurrent planning* in practice rarely involves the provision of promised intensive family preservation services that might result in successful reunifications (or kinship placements).

#### THE HUMPHREYS/KIRALY RESEARCH

- 1.33 This study was undertaken at the School of Health Sciences, University of Melbourne. The focus was to explore current arrangements for separated infants to have care with their natural parents; and to identify issues that affect the infants' experiences of such contact. This review draws on two published sources relating to their study:
1. Humphreys, C. & Kiraly, M. (2009) *Baby on Board: Report of the Infants in Care and Family Contact research Project*. University of Melbourne: School of Nursing and Social Work
  2. Humphreys, C. & Kiraly, M. (2011) *High-frequency family contact: a road to nowhere for infants*. *Child & Family Social Work* 16(1) 1-11 (first published online 20/6/2010)
- 1.34 The aim of the study was to develop "a better understanding of infants' best interests in relation to intensive family contact during protective placements" (2009 p7). The authors explicitly recognise and address the tension between the view that high levels of parental contact might be needed to maximize the chances of family reunification and that "infants also need safety, tranquility and stability of care in order to thrive" (2009 p7). The study involved three methods: i) an audit of 119 case files of all infants aged 12 months or less in 'out of home care' on 1/8/2007 (in the care of the Department of Human Services in Victoria); ii) 11 Focus Groups; and iii) 5 interviews.
- 1.35 The 'Baby on Board' report is an interesting and valuable publication (particularly the research review). It is in fact a preliminary report on Stage 1 of a two-stage project. The respondents in the Humphreys & Kiraly study also expressed concerns about the frequency of natural parent contact with separated children; and the negative impact on the children of having to endure long journeys to such contacts. Similar to Kenrick, a significant (but unstated) proportion of the infants were in 'protective care' because of their parents' serious drug/alcohol problems.

- 1.36 As with all research studies there are methodological limitations. In particular the study a) does not have long term follow up data, b) there were no independent observations of the impact of natural parents' contacts with their separated children; c) the focus groups that provide the source of the data were dominated by social workers and foster parents, and d) the study does not elicit and analyse the views of natural parents about contact arrangements and experiences. In my view, this fourth omission is particularly unfortunate (and is acknowledged as such by the authors).
- 1.37 Also, in an academic peer-review context, there would be debate and challenge about the appropriateness and limitations of the attachment theory 'presumptions' that are presented as the basis of the study. As with the Kenrick study, the Humphreys and Kiraly research is beginning to permeate into child protection practice with regard to justifying severe limitations on natural parental contact with separated babies, infants and children.
- 1.38 The Humphreys & Kiraly review of the contact literature is informative, and overall does not support interpretations stemming from it to minimise natural parent/child contacts in individual cases. In fact, the review of the contact research literature in relation to separated infants and natural parents emphasises the vital element of constructive, frequent and meaningful contact. The importance of constructive supportive services to maintain families intact is also stressed. Indeed, the final paragraph of the report states:

Improving the circumstances of parental contact for infants, and indeed the living situation for infants in care in general, will not be easy. This highlights the imperative of focusing resources on placement prevention and family strengthening, to ensure that the minimum possible number of infants are taken into care, for the minimum possible time to ensure their safety and well-being (Humphreys & Kiraly 2009,p 67).

## DISCUSSION OF THE IMPLICATIONS OF THE KENRICK, AND HUMPHREYS/KIRALY RESEARCH

- 1.39 The theoretical basis for both studies is psychoanalytic and attachment theory. Both sets of theories have extensive histories, and (some but by no means all) service providers (including some therapeutic clinics and adoption agencies) base their practice principles around such models of understanding. However, psychoanalytic and attachment theories are only a subsection of the wider theoretical base that can be called upon to help understand human development, behaviour and relationships. Many other theories with equivalent pedigrees exist that promote equivalent understanding in quite different ways (see P. Dale *Adults Abused As Children: Experiences of Counselling and Psychotherapy*, London: Sage Publications 1999 (8–20) for a brief review).
- 1.40 The importance of this point is that the theoretical basis of psychoanalysis and attachment theory should not be accepted without reference to a) the limitations of such theories and b) their controversial nature. This is particularly pertinent to Kenrick's reference to John Bowlby (2009 p. 7) where the author writes: "*Bowlby*

(1969) drew attention to how an infant's 'capacity to cope with stress' correlates to specific maternal behaviours". Kenrick however omits to discuss how it was Bowlby and associates who drew attention to the severe negative emotional consequences for young children of being separated from their natural parents. There is a substantial literature in the attachment field outlining the deleterious consequences of minimising parental contact with separated children; as well as research with children in care who express their desire for greater family contact.

- 1.41 The development of attachment theory (in the 1950s and 1960s) was based on observations of children's responses to separation and loss of mother figures. Bowlby (1951) developed the theory in relation to maternal deprivation. The studies by the Robertsons (1953) on young children admitted to hospital construed reactions to prolonged separation as involving three stages of adaptation: *protest*, *despair* and then *detachment*. This resulted in significant changes in hospital visiting policies (to open visiting arrangements) – previously parental visits had been restricted so that the children would 'settle'.
- 1.42 Kenrick does not acknowledge this very significant issue. Her argument, based on the views of grateful adoptive parents, is that a) there should be a gap in contact following infants being placed with CP carers (explicitly so that the infants can 'settle'); and b) that natural parent/infant contact should not be at 'high' levels such as 5 times per week. This view fails to consider the deleterious impact upon infants of separation from their natural parents. Kenrick (and her sample of adoptive parents) assume that the observations of stress, distress or 'discontinuities' displayed by the infants are a consequence of unsatisfactory experiences relating to on-going contact with their natural parents. However the alternative possibility of infant unease during natural parent contact being a signal of distress stemming from the separation itself ('protest' or 'despair') should be given equal consideration – rather than the assumption being made that it is the contact itself that is upsetting for the child. When this is wrongly interpreted, the 'cure' (to reduce natural parent contact) risks precipitating the child into the 'detached' separation reaction (which is then erroneously construed as being 'settled').
- 1.43 At no point does Kenrick acknowledge from either a theoretical or empirical basis the emotional and developmental harm that can be caused to infants through unnecessary separations from natural parents (which stem from over-estimation of risks). Whilst Kenrick (and her adoptive parent interviewees) may be correct to conclude that this particular sample of natural parents (with significant drug/alcohol problems) were largely unable to provide positive experiences for their infants during contacts – this finding cannot be extended to the wider range of natural parents and infants who have been separated pending assessment for other reasons. Kenrick does not acknowledge this limitation, and it does not appear to have been noted by the Family Justice Review Infant Contact seminar, nor the Family Justice Review Interim Report.
- 1.44 Another limitation in the analysis presented by Kenrick, is the clear presumption that adoption is necessarily a good thing. In fact, compulsory adoption (where the lack of consent of the natural parents is judicially overridden) is both highly contentious on ethical grounds and significantly under-researched in terms of long-term outcomes (Ryburn 1994). Compulsory adoption is peculiar to child protection

systems in the UK and USA, and is largely unknown throughout the rest of the world. Valid reservations about the process of compulsory adoption include:

- False-positive high-risk identifications (adoptions are irreversible even when the grounds for original concern are subsequently proved to be unreliable)
- Disproportionate outcomes (less draconian measures may provide sufficient stability and protection)
- Total cessation of natural family contact ('letterbox' contact does not maintain a meaningful family connection)
- A non-trivial rate of adoption failures (adoption is not a panacea).

1.45 False positive high-risk identifications: Compulsory adoption is often referred to as being the most draconian outcome in UK law since the abolition of the death penalty. In cases of murder, the death penalty was imposed following a finding of guilt by a jury at the criminal standard of proof (beyond reasonable doubt). The outcome of compulsory adoption occurs on the basis of findings by a single judge at the lower civil level of proof (balance of probabilities). In both scenarios, miscarriages of justice are known to occur.

1.46 In the same way as a hanged man cannot be revived and reprieved, children who have been wrongly subject to compulsory adoption cannot be returned to their innocent parents. [e.g. *Norfolk County Council v Webster* [2007] 2 FLR 415]. In the sad case of four-month-old baby Jayden Wray in 2012, two parents were accused of his murder; and had a new baby removed from their care with a plan for adoption, until it was confirmed that Jayden had in fact died from undiagnosed rickets. (LB of *Islington v Al Alas and Wray* [2012] EWHC 865 (Fam).) Faster compulsory adoption raises risks of inadequate investigation in complex medical cases; proper exploration of alternative (less draconian) placements (e.g. kinship care); and scrutiny of the judicial process.

1.47 Disproportionate outcomes: According to Kenrick, the stated premise of concurrent planning is that “*both rehabilitation to birth parents and adoption would be worked on concurrently, with intensive resources deployed for each alternative*” (2009 p5). I have already noted that Kenrick has not provided any information from her study about the nature of ‘intensive’ services that were provided for the natural parents by the Coram agency to promote the possibility of reunification. However, Kenrick does acknowledge that in general child protection practice (not involving specialist agencies such as the Coram), it is unlikely that local authorities will have the resources (professional skills and time) to undertake the pro-reunification interventions required by the theoretical model of concurrent planning.

1.48 Situations increasingly arise where it is technically feasible and professionally reasonable to provide intensive assessment and reunification services, but this does not occur for resource reasons. Too often, as noted recently by a High Court Judge, families are severely disadvantaged by inadequately resourced and skilled child protection and family support services:

“I am often struck in these cases by the paucity of help for parents in the community, especially for parents who lack familial support. By comparison, the level of help and respite provided for foster carers seems for some reason to be

very much greater...An outcome of permanent removal of children from their families is, too often, as much an indictment of a failed system as it is of inadequate parents.”

(Mr Justice Weir, High Court of Justice in Northern Ireland, 2010). [Belfast Health & Social Care Trust v SM [2010] NIFam (28 June 2010)]

- 1.49 Arranging a compulsory adoption is a far simpler (and much cheaper) professional task for local authorities than undertaking complex assessments and managing reunification programmes. In this situation the danger is that adoption routinely becomes the first plan of local authorities – the first, rather than the last resort (when all reasonable efforts to promote reunification have failed).
- 1.50 Total cessation of natural family contact: In the sample reported in Kenrick’s study it is remarkable that only one of the 27 children who were adopted was subsequently allowed to have any direct contact with any natural family members. That is to say, all but one of the compulsory adoptions in this study were *closed adoptions*, with only ‘letterbox’ contact being offered by the agency as a means of sustaining some level of natural family awareness. Kenrick (as a past member of the Coram Adoption Panel) does not question the appropriateness of this practice.
- 1.51 It is clear from the enthusiastic tone of her comments that *closed adoptions* was the policy of the Coram adoption agency, and this view would have been inculcated into the beliefs of the adopting parents through their preparatory training and approval sessions. Whilst the Coram parents expressed views about the benefits of having met the natural parents, it clearly did not come into their awareness that on-going direct post-adoption contact can be of lifelong benefit to adopted children in appropriate circumstances.
- 1.52 Kenrick ignores the literature on the benefits of direct on-going post adoption contact. I have noted elsewhere (Dale 2005) that traditionally (since the 1920s) adoption practice involved the:
- “...legal transfer of babies from shameful unmarried mothers to anonymous childless couples. The process was private (the relinquishing mother know nothing about the adopters), secret (the adoptee was rarely informed of family history) and closed (all contact between natural parent(s) and the adopted infant was totally severed). It is now generally recognised that such practice was psychologically misguided, and across decades commentators have questioned the maladaptive effects on the development of individual identity of adopted children/adults who did not have full information about their family, and genetic and cultural backgrounds. Concerns about the consequences of such ‘genealogical bewilderment’ were raised. Extensive research in the 1980s and 1990s raised further doubts about the social transplantation model of closed adoption in respect of healthy identity formation and stability of placements.” (p. 200-1)
- 1.53 Research on post-adoption contact has noted a history of somewhat polarised views within the professional community about the benefits and drawbacks of direct post-adoption contact (and these debates continue in the present day). However, there is developing a general consensus in modern post-adoption research that some level of on-going direct contact between the adopted child and his/her natural family is either a beneficial factor, or a neutral factor in relation to the success of adoptive placements (Grotevant, 2004).

- 1.54 A non-trivial rate of adoption failures: Kenrick does not make any reference to an established body of follow up research which highlights that adoptive placements are by no means always entirely successful. Approximately 20% break down at some stage; and significant proportions of adopted adults report varying degrees of dissatisfaction with their experience of having been adopted (Howe & Feast 2000; Rushton & Dance 2006). Often such dissatisfaction stems from a sense of confusion about identity and the need to search, discover and reconnect with their genetic and cultural identity and origins (Owusu-Bempah 2007).
- 1.55 Such searching and reconnecting is a more problematic and poignant experience for adopted adults who were not enabled to maintain direct links with their natural families during their childhoods. The recent ITV television documentary series *Long Lost Families* (which undertakes well-resourced searching and arranges reunions following long-term total separations) is a poignant illustration of the pain from separation/loss and the aching for reunion. The following are a few quotes from reunifications aired on TV during the 2012 series:
- “*I look in a mirror and think: "Who are you?"*” (adult adopted child prior to reunion)
  - “*There’s such a nothingness there*” (adult adopted child on adoption experience)
  - “*What makes me me? Its not those who adopted me its you...*” (adult adopted child to natural mother when reunified)
  - “*I need to know who Mum is, and she needs to know me*” (adult adopted child prior to reunion)
  - “*I look like her, it’s the first time I’ve ever looked like anybody...*” (adult adopted child following reunion with natural mother)
  - “*There wasn’t a day gone by when I didn’t think of you...*” (natural mother to adult adopted child following reunion).

For a detailed account of reunification following a compulsory adoption see also: Coulter, T. (2006) *Opening Up Family Courts* [http://www.unity-injustice.co.uk/tammy\\_speech.htm](http://www.unity-injustice.co.uk/tammy_speech.htm).

Many publications highlight similar themes, for example:

- A.L. Baden, *Counselling adopted persons in adulthood: integrating practice and research*. The Counselling Psychologist, 35, 6 868-901 (2007)
- K. Carr, *Adoption Undone: A Painful Story of an Adoption Breakdown* London: BAAF (2007)
- M. Riben, *Shedding Light on the Dark Side of Adoption*. USA: Harlo Press (1988)

- C. Smith & J. Logan, *After Adoption: Direct Contact and Relationships*. London: Routledge (2004)
- J. Triseliotis, J. Feast & F. Kyle, *The Adoption Triangle Revisited: A Study of Adoption, Search and Reunion Experiences*. London: BAAF (2005)
- N. N. Verrier, *The Primal Wound: Understanding the Adopted Child*. USA: Gateway Press (1993)
- N.N. Verrier, *The Adopted Child Grows Up: Coming Home to Self*. USA: Gateway Press (2003)

1.56 This mixed body of research and powerful personal experiences illustrates how important it is that the impact of the research of Kenrick, and Humphreys/Kiraly (which stems almost wholly from the adopters' perspectives) does not reinforce tendencies for resource-drained local authorities to construe compulsory adoption as a panacea – a quick, cheap and necessarily successful outcome for children. Apart from the significant human rights and social engineering implications, failed adoptions cause enormous damage to children. Adoptions can and do break down; and it is not unknown for adolescents and even quite young children to be returned into the care system having lost both their natural and adoptive families.

1.57 There are signs that misunderstandings stemming from the research of Kenrick, and Humphreys/Kiraly are beginning to permeate child protection practice. The DoE/Narey document and recommendations are an illustration of this. In a recent case in my direct experience, a social services department attempted to persuade a court that daily contact between parents and their baby (removed at birth) was contraindicated on the basis of the Humphreys & Kiraly research. This was a case that involved a transient period of neglect of an earlier child (largely due to parental depression) and did not involve any parental drug/alcohol misuse, or physical abuse. Nor did contact involve any onerous travel for the baby. In reality the Humphreys & Kiraly research was not relevant to the issues at stake.

1.58 The danger is that minimal contact 'messages' from these research projects will take root in mainstream practice to provide rationalization and justification for decisions that have been taken for other reasons specifically:

- i) the lack of resources to promote frequent high quality supervised contact;
- ii) the lack of resources to undertake appropriate assessments to thoroughly explore the potential for reunification; and
- iii) a professional culture that promotes pessimistic interpretations of the potential of natural parents/families – and a consequent rather idealistic pro-compulsory adoption mindset.

1.59 In this situation many natural parents are caught in a 'no win' situation. Minimal contact weakens natural parent/child bonds resulting in assessments that highlight impairments of 'attachment', in turn recommending the need for 'permanency'. This results in further reductions in contact in preparation for a compulsory closed adoption. Minimising natural parent contact at the early stages of a care

proceedings case is not a neutral measure. It significantly ‘steers’ the case by impairing the potential of the natural parent/infant relationship, thereby reducing the prospects of reunification and increasing the likelihood of adoption. In contrast, as noted by Smariga (2007) and Duxbury (2007) in the USA, frequent contact in natural surroundings is essential when reunification or kinship care has not been excluded to preserve attachment and the quality of parent/child relationships.

- 1.60 The Munro Review of Child Protection (Final Report May 2011) has stressed the importance of social workers reclaiming (and regaining) skills to work on a constructive, collaborative and relationship-based way with parents and families. This resonates with the ethos of the programmes illustrated by Smariga and Duxbury in the USA (and decades of family support services in the UK e.g. Family Centres, now sadly greatly diminished). ‘Adoption as first resort’, with severe restrictions on natural parent/infant contacts, without skilled intensive relationship-based assessment and family support interventions is the antithesis of this approach.
- 1.61 On the basis of a careful consideration of their *lifelong* best interests, separated babies and infants have both a need and a right to expect that all reasonable efforts will be invested in open-minded assessments of their parents and extended family members (involving high levels of contact in local and naturalistic surroundings). Also, that, in all but the most egregious cases, compulsory adoption will be the last, not the first, care plan of the local authority.

## 2. **ADDITIONAL COMMENTS ON THE DoE/NAREY DOCUMENT.**

- 2.1 I have already commented that the DoE/Narey document is limited, as it does not present its recommendations in the context of a consideration of the relevant social policy history relating to child protection and adoption. As such its recommendations constitute technical adjustments aimed at facilitating a smoother and quicker implementation of “*child rescue*” policies and practices.
- 2.2 The DoE/Narey document does not describe and analyse any other model of adoption apart from the traditional ‘closed’ model prevalent in the UK from the 1920s onwards. Other models of adoption exist that involve varying degrees of ‘openness’, and these are commonplace on an international basis. For example, an information leaflet on adoption produced by the New Zealand government in 2006 stated:

“Open adoption is a process by which the birthparents and the adoptive parents meet and exchange identifying information. The frequency and regularity of contact between the birthparents and adoptive family is an individual arrangement, which is agreed upon by all parties...The main reason for supporting openness in adoption, is to ensure that the child has continuing access to both families. As the child grows older, he/she usually participates in making decision about the type, and the frequency of contact. Adoption social workers can be involved in assisting the two families with reaching a mutually acceptable contact agreement.”

*Adoption in New Zealand – Open Adoption. NZ Children & Young Persons Service ‘Some Questions & Answers’ leaflet.*

- 2.3 Compulsory closed adoptions are fairly specific to the UK and USA; and are viewed with bewilderment and horror in many other countries (such as was my own experience when speaking to professional groups in Australia in 1998 and 2006.
- 2.4 Emotional and developmental harm from separation, and the positive promotion of natural parent contact: There is an established research-based alternative perspective to the Kenrick/Coram view that it is in the best interests of separated infants and children to have very limited (if any) contact with their natural parents and families. Two important sources of the pro-contact model will be briefly reviewed:
1. Smariga, (2007) M. *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know*. USA: American Bar Association & ZERO TO THREE
  2. Duxbury, M. (2007) *Making Room in Our Hearts: Keeping Family Ties Through Open Adoption*. New York: Routledge

## SMARIGA

- 2.5 The publication by Margaret Smariga is an authoritative Practice & Policy Brief financed by the American Bar Association and the federal Government. It originates from the ZERO TO THREE Policy centre, which is a USA research based independent programme that: “*brings the voice of babies and toddlers to public policy at the federal, state, and community levels by translating scientific research into language that is accessible to policy makers...*” (introduction, no page number). The publication makes reference to a range of programmes that promote constructive and purposeful ‘visitation’ (the US term for contact) between separated natural parents/infants. One example (typical of several intensive projects described) is the programme in Miami where the juvenile court can refer:

“Maltreated toddlers and their parents to a 25-week child-parent psychotherapy program with a trained infant mental health clinician. Individualized therapeutic intervention and parental guidance are provided to help parents learn to play reciprocally with their child, understand their child’s nonverbal cues, and support their child’s healthy development.” (p.24)

- 2.6 The Miami project reports a reunification rate of 86% with no subsequent further reports of abuse or neglect (Leathers 2002). Such intense interventions are clearly what is envisaged in the proper interpretation of concurrent planning where ‘*intensive resources are devoted to promoting reunification*’. From her review of the effectiveness of such intensive programmes Smariga outlines key issues relating to the structure and process of natural parent/infant contact in preparation for reunification (or until reunification has been ruled out as an option). These can be categorised as:

- Harmful impact from separation
- Value of contact
- Purposeful structure of contact

- Experiences of contact
- Professional misconceptions re contact
- Impact of inadequate resources

2.7 These key points can be best illustrated by direct quotations from the Smariga report:

Harmful impact from separation:

...children who are removed from home, particularly those who are very young, are exposed to a new danger – the emotional and developmental harm that can result from separation. (p1)...The younger the child and the longer the period of uncertainty and separation from the primary caregiver, the greater the risk of harm to the child. Therefore, frequent, meaningful parent-child visits are critical for infants and toddlers in foster care. (p1)

Children placed in care between six months and three years of age are particularly vulnerable to separation and more likely to experience subsequent emotional disturbances. (p5)... Because physical proximity with the caregiver is central to the attachment process for infants and toddlers, an infant should ideally spend time with the parent(s) daily, and a toddler should see the parent(s) at least every two-to-three days. (p11)

Value of contact:

2.8 Smariga provides a detailed analysis of the benefits of contact a) for the infants themselves and b) as a therapeutic motivator for their parents with regard to potential reunification:

To promote attachment and strengthen the parent-child relationship, very young children in foster care need frequent and consistent contact with their parents. In many jurisdictions, visits consist of brief, weekly encounters, in a neutral settings, under the supervision of a caseworker. (p5)

2.9 Smariga (at page 5) quotes the American Academy of Pediatrics Committee on Early Childhood, Adoption and Dependent Care (2000):

For younger children, this type of visit is not conducive to optimal parent-child interaction and may minimally serve the parents' needs for ongoing contact with the child or may even be harmful for the child. A young child's trust, love, and identification are based on uninterrupted, day-to-day relationships. Weekly or other sporadic "visits" stretch the bounds of a young child's sense of time and do not allow for a psychologically meaningful relationship with estranged parents... For parent-child visits to be beneficial, they should be frequent and long enough to enhance the parent-child relationship.

2.10 In contrast to the suggestions made by Humphreys/Kiraly, and Kenrick that higher levels of contact may not be associated with rates of reunification, Smariga writes:

Research shows that regular, frequent visitation increases the likelihood of successful reunification, reduces time in out-of-home care, promotes healthy attachment, and reduces the negative effects of separation for the child and the parents (p7)

In a growing number of communities, the parent visits the child in the foster home. This model of care, known as inclusive practice, regards the foster parent as a temporary caregiver for the child and a supportive role model for the parents. Researchers have found strong links between inclusive visiting practices and (1) frequency of mothers' visits and (2) chances of reunification (Leathers 2002 op cit). Parent-child visits in foster homes can only succeed if the foster parents' role as mentor to the parent is clearly defined from the outset and the foster parents are trained and supported. (p11)

Unless the court finds substantial evidence to believe that visitation or supervised visitation would place the child's life, health, or safety at risk, the parent should be allowed to visit his or her child. (p7)

#### Purposeful structure of contact:

- 2.11 Again, in contrast to the contact context outlined by Humphreys/Kiraly & Kenrick, where infants have long tiring journeys to contact sessions in agency locations; Smariga outlines the benefits of contact being local, informal and flexible – including high levels of collaboration between foster carers and natural parents:

Family visitation is a cooperative venture, and all participants (parents, foster parents, relatives, caseworkers, the court, lawyers, and service providers) must work together to ensure that visits “meet the attachment and connectedness needs of children and their families...” p7)

If reunification is a permanency option, very young children should be placed in out-of-home care as near to their biological parents(s)' home as possible to allow frequent visitations. Travelling long distances to visits is inconvenient for everyone involved and is hard on young children. Infants and toddlers who arrive at a visit after a lengthy confinement in their car seat may be cranky or sleepy from the trip, which detracts from the quality of the visit. (p9)

...visitation activities allow the parents to learn and practice new skills and behaviors. Visits typically occur more frequently, for longer periods, in a greater variety of settings, and with gradually reduced supervision as the parent assumes more and more responsibility for the child. (p10)

The visitation plan should encourage the birth parent to directly care for the child as much as possible, and family visits should take place in the least restrictive, most natural setting that can ensure the safety and well-being of the child. (p11)

- 2.12 With regard to the range of contact settings, Smariga notes that these include: The homes of the parents or other family members (with in-home supervision or in later phases of placement); agency settings (particularly if the parent is receiving specific services); and specific supervised contact centres. Smariga specifically warns against child protection and adoption agencies being used as the venue for contacts:

The child welfare agency: This setting should be used only as a last resort. Often agency offices are sterile and uninviting, and many do not provide private rooms or age-appropriate toys and activities for visiting families. Also, this environment can remind parents of their failure as parents and the agency's power over their lives, a sentiment that does not promote good visits. (p13).

...parents often need coaching about how to care for their child and how to plan appropriate activities during visits. Many parents simply do not know how to perform daily caregiving routines, play with their child, comfort their child, respond to their baby's nonverbal cues, respond to their child's special medical or developmental needs, or enjoy their child's company. (p13)

Visitation activities should occur in a variety of contexts (feeding, playing, bathing, diapering, soothing, putting to bed, medical appointments, etc) (p14)

Ideally, the mother and foster parent should work together to help ease the baby's transition into and out of each visit. (p16)

### Professional misconceptions regarding contact:

- 2.13 It is common in child protection risk assessments that different professional views are formed regarding how to interpret a child's reactions to contact. For example is 'clinginess' to the foster carer and the natural carer at different times an indication of anxiety from separation from the natural parent – or fearful distress about being in their presence? Smariga comments:

Professionals working with very young children in foster care often do not understand the extent of the child's distress over being removed from the parent and placed in a strange environment. It is important to remember that very young children grieve the loss of a relationship. Even though the parent has maltreated the child, she or he is the only parent the child has know, and separation evokes strong and painful emotional reactions.” p5

Judges and lawyers need to understand that a young child's emotional dysregulation following a visit does not necessarily mean the parent did something harmful during the visit. (p15)

Very young children cannot understand the separation, and they tend to respond with bewilderment, sadness, and grief. During visits, they may cling or cry, act out, or withdraw from their parent. At the end of a visit, when another separation is imminent, they may become confused, sad, or angry. Following visits, infants and toddlers may show regressive behaviors, depression, physical symptoms, or behavioral problems. (p15)

...distress at separation can indicate a positive relationship between the toddler and his mother. (p16)

- 2.14 How much support is actually and actively provided for parents in contact sessions – as opposed to contact supervisors sitting passively taking copious notes?

Parents also find visits to be a time of emotional upheaval, particularly during the first phase of placement. Parents often experience pain and sadness resulting from the separation. They may feel shame, guilt, depression, denial that there is a problem, anger, and/or worry about the child. (p15)

- 2.15 The Kenrick research is heavily based on the observations and interpretations made by prospective adoptive parents who clearly have a vested interest in 'their'

infant's contact with his/her natural parent not being construed as being positive or beneficial. Kenrick ignores this bias, but Smariga notes:

... Is it possible that the foster parent's bond with the baby is so strong that she consciously or unconsciously resents the time the baby spends with the mother? (p16)

#### Impact of inadequate resources

2.16 As public funding reductions are increasingly implemented in the UK (in 2012 at the time of writing) there are significant dangers that effective assessment services for families – including the duty to make reasonable efforts to promote reunification – will further diminish and that the research of Humphreys/Kiraly and Kenrick will be called upon by local authorities to justify minimal efforts being undertaken to explore the potential for reunification and to significantly restrict the opportunities for constructive and beneficial contact between natural parents and separated infants/children. The danger is that the Humphreys/Kiraly and Kenrick research will be used as a rationalisation for decisions that are predominantly resource driven.

2.17 Smariga has drawn attention to this issue in the USA:

Tight budgets, high caseloads, and scarce community resources make it difficult to implement all of the visitation best practices presented here. (p1)

Foster parents can be critical partners in successful visits.... In a growing number of communities, foster parents receive training and support to supervise visits in their home so birth parents can be involved in the child's daily routines. (p9)

Because child welfare agencies and juvenile courts are often overwhelmed by high caseloads and lack funding for supervision, many communities lack adequate visitation services for families of infants and toddlers in foster care. (p18)

2.18 Smariga concludes:

“When reunification is a permanency option, judges and those who represent children in foster care and their parents should advocate for frequent, safe, and high-quality visitation”. (p.26)

## **DUXBURY**

2.19 Micky Duxbury is an adoption educator (a leader of adoption support groups in California), a therapist with over 20 years experience; and is herself an adoptive parent. Her book: *Making Room in Our Hearts: Keeping Family Ties Through Open Adoption* (2007) is a powerful testament based on research, case studies and clinical experience of the value of openness in all forms of adoption in the USA, including those that arise from children being taken into the care system.

2.20 The research for her book included interviews and questionnaires with over 150 birth and adoptive family members across the USA and Canada, including 93

adoptive parents, 54 birth parents and 12 birth grandparents. The aim of the research was:

“To let those who had the most experience in open adoption give us their perspective, their advice, and the benefit of their hindsight and wisdom” (p. xi)

- 2.21 Duxbury reviewed the history of adoption practice in the USA, which traditionally was totally closed largely involving mother’s ‘relinquishing’ their newborn babies in a context of personal and social shame about ‘illegitimacy’. However, by the 1960s and 1970s:

...birth parents and adopted persons were beginning to raise their collective voices about the psychological and spiritual damage done to them by the worst practices of closed adoption (p. 10)

- 2.22 As increasing numbers of adopted people sought support for the adverse effects of total severance of contact with and knowledge of their natural families and heritage, Duxbury notes:

What seemed like sound social work advice at the time, was, in fact, a **recipe for a future mental health disaster** (p.10) (emphasis added)

- 2.23 Through the presentation of detailed, varied and complex case histories, Duxbury does not state or imply that there is a single model for openness, that it can occur in every situation, or that it is without its stresses and strains. However, what the case studies do demonstrate is that with goodwill on all sides and appropriate support, ‘open’ arrangements can be beneficial over a long period of time for all three parties in the ‘adoption triangle’: the child, the natural family, and the adopting family:

Child-centred adoption means keeping family ties when they are appropriate, and creating healthy boundaries between birth and adoptive families in order to maintain those ties. Child-centred adoption means remembering that the child is of two worlds, and for the child to grow up as an integrated person, he or she will have the task of putting these worlds together. Adoptive parents and birth parents can help adopted children weave these worlds into a cohesive braid that is the reality of their lives as adopted persons (p.16)

### 3. ELABORATION ON SPECIFIC ISSUES.

- 3.1 The DoE/Narey proposals have been made without sufficient consideration of important issues. I shall comment on several of these in this section.

- 3.2 Absence of specific Reunification Services: Placing a “*rescued*” baby/infant/child for adoption is a far simpler social work task than is providing skilled and prolonged interventions to promote successful reunification. Social workers enjoy the deference and gratitude of prospective adoptive parents; and (apart from formal meetings and telephone calls) spend minimal time in the presence of natural family members (who are invariably disenchanted with the child protection process). In most social services departments, social workers no longer acquire the

skills and commitment to undertake constructive interventions with vulnerable (and sometimes angry) parents.

- 3.3 All local authorities have specialist 'in house' Fostering and Adoption teams; very few, today, have any 'in house' specialist services with experienced staff who can promote reunification. Such services used to be provided on a large scale in the voluntary sector (e.g. NSPCC); but these have almost totally disappeared (due to funding constrained and the development of a more authoritarian, risk averse "*child rescue*" culture). Also, strikingly, the nationwide network of Family Centres, which provided a range of intensive supportive services for vulnerable parents (and which in my experience were a central component of successful reunifications), has also completely disappeared.
- 3.4 The widespread absence of experienced and specialist Reunification Services means in reality that the principle underlying 'concurrent planning' is not carried out: with a few remaining exceptions (e.g. the '*Resolutions*' team based in Bristol), the skills and resources are generally no longer available to promote effective reunification work. Hence, there is such a low rate of reunification from 'concurrent planning' assessments. In societies where compulsory adoption is not a lawful option (e.g. as in South Australia), specialist reunification services are commissioned on an extensive basis (Rhodes 2012, personal communication).
- 3.5 Research indicates that reunification rates of babies/infants to natural parents/families is extremely rare in UK concurrent planning projects (8% Monck 2004; and 3.7% Kenrick 2009/2010.). Practitioners in such projects rarely have substantial experience of successful reunification work. They also have a conflict of interest as they have a loyalty toward the concurrent foster carers/prospective adopters who they themselves have recruited and support.
- 3.6 The need for specific independent assessment of the potential for direct post-adoption contact: Because a parent does not accept (and indeed resents) the justice of an adoption that they opposed, this does not necessarily mean (particularly over time) that they would be unable to engage in some level of direct post-adoption contact in a reasonable and responsible way. To claim otherwise (as formulaically happens in many court cases in my experience) is both convenient and simplistic.
- 3.7 Following the making of a Placement Order, what is needed is a period of independent assessment over a reasonable period of time (I normally say three months) by a suitably experienced and independent professional (with a relevant therapeutic background) to clarify to what extent a parent would be likely to cause disruption to the adoptive placement if some level of direct contact were to be facilitated in the future.
- 3.8 It is not possible to undertake such work on a hypothetical basis prior to the making of the Placement Order when the focus for most parents is on strenuously opposing the making of such an order. Only when a Placement Order has been made is there any reasonable prospect of an independent professional engaging with the parents, and the prospective adopters, to discuss the options and implications of direct post-adoption contact.

- 3.9 In many cases it is conceivable following such collaboratively focused discussions, that broad agreement could be reached between the natural family, and the adopters about future direct and indirect contact arrangements. Any negotiated or mediated arrangement for direct post-adoption contact has to be by agreement, and involve 'rules' that the natural parent would have to agree and abide by. Natural parents need to be clear that in such circumstances they must not behave in any way to make the child concerned feel confused or insecure. The shared goal is for the child to have a settled and fulfilling childhood to maximise potential in all respects. At the same time, natural parents wish to maintain a meaningful relationship with the child, so that when the child is an adult, they can further develop their relationship in any way that they choose.
- 3.10 There are some cases where the parent is so disturbed, vengeful, hostile and unpredictable that direct post-adoption contact could not be contemplated because of the very real likelihood that the parent would undermine the security of the placement through intimidation or violent behaviour. In my experience, these parents are the exception.
- 3.11 Benefits of direct post-adoption contact: Given that the research evidence on direct post-adoption contact is clear that this has beneficial or neutral effect, except in cases where parents undermine the placement (e.g. Logan & Smith 2004; Neil 2004; Grotevant 2004; Thoburn 2004; Ryburn 1996; Triseliotis 2002); an adopted child's lifelong best interests are likely to be compromised in many cases by all contact with natural family members ceasing for the remainder of childhood.
- 3.12 From the perspective of a child growing up with an accurate sense of his/her true identity, heritage and genetic connections; cessations of contact promote disadvantage described by Owusu-Bempah (2007) as the absence of '*Socio-Genealogical Connectedness*'. Others in the adoption literature have referred to such effects as '*genealogical bewilderment*' (Sants 1964). There is a large autobiographical and therapeutic literature recording the struggles faced by many adopted people in relation to absence of knowledge and connection with their biological and cultural roots.
- 3.13 Research and practice experience indicates that the most effective and mutually satisfying post-adoption contact arrangements tend to be those that are agreed directly between the adopters and the natural parent(s); including recognition that such arrangements need to be reasonably flexible, and may evolve over time. The general range of direct post-adoption contacts (at least as a starting point) in the UK is between 1–6 meetings per year. In my view such direct contacts should last at least half a day (or even a whole day), and be seen as a special event by the child involving varied activities and a meal.
- 3.14 In an electronically socially-networked world, adopters need to understand fully that it is now virtually inconceivable that adopted children and natural family members will not resume contact at some stage during adolescent/young adult years. It is also highly likely one day that many of these children will read the court papers concerning their histories and adoptions. This could fuel resentment and anger towards adoptive families and legal action against local authorities. It is also likely to be a disturbing experience for such (adult) children, which could threaten their lifelong emotional well-being.

- 3.15 If adopters are not willing to promote some agreed level of direct contact with natural family members during childhood years (on the basis that natural family members can abide by the agreed ‘terms and conditions’), the more likely it is that the adoptive children will eventually reject them in favour of their natural families in their teenage/young adult years – leaving the adoptive parents feeling bereaved, bereft, bewildered and abandoned.
- 3.16 It has been my experience when talking with adoptive parents that social services and adoption agencies have rarely discussed this issue with them.
- 3.17 Poor outcomes from adoption: The DoE/Narey document avoids a focus on, and consideration of, adoptions that eventually have poor outcomes. There is a significant literature (research, clinical and self-report) about unsuccessful adoptions. There are two main adverse outcomes:
- a) placement breakdown during childhood (often referred to as ‘disruption’); and
  - b) placements that leave the adoptive person, as an adult, with discomfiting psychological and emotional thoughts and feelings.
- 3.18 It is important to note that there is little long-term follow-up research focused on either of these outcomes following compulsory adoption in the UK. In one prospective follow-up study of children aged between the ages of 5–11, placed for adoption from the care system, at follow up (after 6 years) 51% of these placements had either broken down or were otherwise unsatisfactory (Rushton & Dance 2006).
- 3.19 The long-term outcomes of compulsory adoption in the UK are simply unknown. One eminent UK barrister spoke publicly as this being a “*social experiment on a massive scale*” (Tolson 2004). In August 2012, another UK barrister wrote an article in the Independent newspaper entitled “*Forced Adoption: The demonization of parents in care proceedings*” warning against the social engineering and oppressive nature of compulsory adoptions. (Proudman 2012). This broad ranging data and opinion about the known potential negative outcomes, should advise caution against the idealisation of adoption apparent in the DoE/Narey document.
- 3.20 The DoE/Narey document pays no attention to the tragic outcomes reflected by the breakdown of compulsory adoption placements when there has been no natural family direct contact (or even sharing of information). During my career I have known several children/adults who were subject to adoption placements breaking down, and being returned to the care system. These people had lost contact with their natural families, and then became estranged from their adoptive families. There are fewer sadder situations of such ‘care orphans’ who have no involvement with either their natural or adoptive families.
- 3.21 A very recent Family Court judgment in July 2012 described such a situation in detail: **Re K (A Child: Post Adoption Placement Breakdown) [Neutral Citation Number: [2012] EWHC B9 (Fam)]**. In this case the judge explicitly described the actions and attitudes of the local authority as being “*cruel*”. Key points of the case, as follow, are very relevant to this discussion:

1. K was adopted at age 7. Her adoptive parents were not given full information by social services about the negative events in her past family life. They later said they would not have looked to adopt her if they had been told the full story.
2. Once in care and adopted, K apparently no longer had any contact with any members of her natural family, including five siblings from whom she had been separated and isolated.
3. At age 10, K's behaviour became increasingly challenging. She was recorded as blaming her adoptive mother for her not being able to live with her birth family.
4. Following the adoption at age 7, K did not receive any counselling/therapy or 'life story' work. The judge noted: "*K needs therapy. She has needed therapy for a long time. One of the most disturbing features of this case is the ongoing lack of appropriate therapeutic support.*"
5. By age 12, K's behaviour was proving impossible for her adoptive parents to manage. She became both disturbed and beyond parental control. Her adoptive parents requested support, including respite foster care breaks, which was refused by the local authority on several occasions.
6. Finally, K was admitted to foster care on a voluntary basis. Her foster parents could not cope with her behaviour and she was returned to her adoptive parents.
7. The local authority then recommended that the adoptive parents should find a residential school for K, and that the local authority would provide 50% of funding (expecting the adoptive parents to pay 50%).
8. The adoptive placement finally collapsed when K was aged 13/14. The minutes of a 'Professionals meeting' record that the tone of the meeting was deeply hostile towards the (adoptive) parents including: "*Members feel that the (adoptive) parents are high risk abusive parents*".
9. K was placed in a residential unit in another region of the country. She now insists that she never wants to have any more contact with her adoptive family.
10. The local authority then brought care proceedings and presented evidence in support of this that was highly critical of the adoptive parents. The judge concluded that the stance of the local authority in this respect was most unfair to the adoptive parents. He accepted the view of the expert psychologist that K had always suffered from Reactive Attachment Disorder, which any pair of parents would have struggled to manage without specialist support (which was never provided). The Judge commented that the stance of the local authority in its evidence against the adoptive parents was "*not only inappropriate and wrong, but cruel*".
11. The outcome of the case is that the Judge felt there was no legal alternative than to grant the local authority application for a care order. (This will have serious implications for the adoptive mother's professional role as a teacher).
12. K remains in a specialist residential unit having no contact with either of her natural and adoptive families. She is very angry.
13. Almost certainly, her natural parents, five siblings and natural family network will have no idea what has happened.
14. The adoptive parents have been through an horrendous experience.

3.22 Another tragic adoption breakdown was the focus of a Channel 4 TV documentary: "*Lost Children: Josh*" broadcast on 7<sup>th</sup> August 2012. My note of this programme states:

Josh's mother appears to have been a serious drug addict. Josh 'yo-yo'd' many times between foster and at-home placements for the first 5/6 years of his life.

When adult, Josh should request his social services records and seek advice whether he has a case for damages against the local authority for failure to protect his welfare at that stage of his life.

At the age of 6 years, Josh was adopted by adopters who were not given a true or full account of his background, and the nature of his problems.

Direct post-adoption contact was arranged with his natural mother on (only) one occasion per year.

In the adoptive placement, Josh clearly still felt a loyalty to his natural mother, and stated that he wished to see her more often.

Inevitably, the 'honeymoon period' in the adoption was soon over. Josh's difficult behaviour was a factor behind the breakdown of the adoptive parents' marriage, and the adoptive father left the home. This was another significant loss for Josh.

The adoptive mother (who appears to have had the patience of a saint) increasingly struggled to contain Josh and his behaviour as he became bigger, and his behaviour more challenging.

A residential school placement was provided for Josh, and sanctions for bad behaviour included preventing him having his annual contact with his natural mother (how cruel, and counter productive).

As an adolescent Josh became involved with drugs (possibly partially as a way of identifying with his natural mother).

His adoptive mother finally could take no more, and Josh left the adoptive home, returning to the care system to reside in a Children's Home.

The adoptive mother (for whom I have the utmost respect) is left bereft and exhausted with no child and no marriage.

It should be a criminal offence for local authorities not to provide full information about children to prospective adoptive parents.

- 3.23 If the UK practice of compulsory adoption continues with no direct contact for the child with natural family members during childhood, I predict in the not-too-distant future, an increase in the phenomenon of adoptive parents being rejected and abandoned by their alienated adoptive children who 'vote with their feet' and return to their natural families. This is a tragic outcome for all three parties in the 'adoption triangle'. It is one, in my experience, that adoptive parents are not warned to expect by social/adoption workers.

#### 4. **OTHER RESPONSES TO THE 15 DOE/NAREY DRAFT PROPOSALS.**

- 4.1 Proposal 1: "*We could strengthen regulations and guidance so that contact arrangements are purposeful and reflect the needs of the child*".

As I have outlined earlier the impact of this would depend crucially on the interpretation of "*purposeful*" and the "*needs of the child*". As the DoE/Narey document is firmly in the "*child rescue*" paradigm, this proposal would reinforce

existing local authority cultural tendencies towards adoption as the first rather than last resort. It would not be in accordance with the principle of making reasonable efforts for children to remain living with their parents or as part of their extended family networks. There would be unintended consequences of ‘false positives’ – that is the adoption of children who could safely have been brought up within their own families.

- 4.2 Proposal 2: “... we would like to propose that a starting point might be that children under two are rarely exposed to contact to contact more than 2 or 3 times a week and for sessions of no more than 2 hours”.

Note the negative connotation and moral judgement apparent in the use of the word “*exposed*”. Any “*starting point*” that contact for children under the age of two years should be limited to 2 or 3 times a week for no more than two hours per time is a crude ‘one size fits all’ measure; and is wholly counter to the prospects of reunification. It is a technical device stemming from the “*child rescue*” paradigm. It pays no heed to the reasons why the infant is in care, breast-feeding benefits for the infant, and the formation and consolidation of early attachments. Such a proposal would impair the growth of the parent-infant relationship, and inhibit the development of parenting confidence and skills. It would result in observations of contact that are negative about parental capabilities, and such observations would be used to support a case for adoption. Arbitrarily restricting contact in such a way would create a largely self-fulfilling prophecy that adoption would be the eventual outcome.

- 4.3 Proposal 3: The role of Independent Reviewing Officers certainly needs to be reviewed. Quite simply, they are not and cannot be independent whilst being a part of the same local authority. In a recently reported case, the IRO service in Lancashire County totally failed to identify that:

“Two brothers, A (16 years old) and S (14 years old), were removed from the care of their parents as infants and went into the care of Lancashire County Council. They were freed for adoption in 2001. The boys remained under the freeing orders for 11 years, moving from foster placement to foster placement and becoming increasingly unsettled and disturbed. Overall, A moved backwards and forwards between placements no fewer than 77 times and S moved 96 times. They were subject to physical and sexual abuse in two foster placements. The Guardian described the plans for permanence for the children as having amounted in reality to ‘permanently looked after disruption’. The boys have suffered lifelong damage as result of their experiences in care.”

**A and S v Lancs CC [2012] EWHC 1689 (Fam)**

- 4.4 The IRO system whilst part of the local authority will be totally inadequate to identify cases where a local authority operating a “*child rescue*” culture is failing to provide appropriate supportive assessment services (such as parent/child foster placements) as part of a duty to make reasonable efforts to promote reunification before making plans for adoption. This requires continual judicial scrutiny.
- 4.5 Proposal 4: “*We could look again at the duties on local authorities in primary legislation to allow children in care reasonable contact with their birth parents and to promote contact for looked after children*”.

Again this is a view based strongly on the “*child rescue*” paradigm with its specific interpretation of what is “*reasonable*” and what are a child’s “*best interests*”. Removing the duty of local authority to promote contact (the presumption of contact) would result in local authorities routinely not allowing contact or providing only minimal contact opportunities. This would be a consequence of two factors: culture (*child rescue*) and (depleted) resources. The provision of frequent and meaningful contact in a suitable environment is a labour intensive activity for local authorities. In the current stringent financial climate this is an activity and expense that would be attractive for budget holders to dispense with. Such action would then be rationalized as being in the children’s “*best interests*”.

- 4.6 Proposal 7: “*We could introduce a presumption of ‘no contact’ unless the local authority is satisfied that contact would be in the best interests of the child*”.

This is the most draconian of the DoE/Narey “*child rescue*” proposals. It appears to suggest that the determination of the human right to family life (meaningful contact) should become an administrative function of the local authority, rather than a judicial determination of the court.

Quite simply, given the very variable quality of local authority child care practice – see:

**A and S v Lancs CC [2012] EWHC 1689 (Fam) &**

**Re K (A Child: Post Adoption Placement Breakdown)**

for two very recent examples – it is not possible to have confidence in either the competence or good faith of local authorities to make fair, reasonable and consistent judgements about the risks and potential benefits of contact, on either a short or long-term basis.

- 4.7 The DoE/Narey document proposes an intensification of existing authoritarian policies and practices stemming from the “*child rescue*” model of serving children’s *best interests*. As I have outlined in this paper, it is notoriously difficult to obtain professional and social consensus about what the “*best interests*” of children actually are.
- 4.8 I have outlined concerns about the stance of the DoE/Narey document being based on a very short-term perspective on the outcomes of largely ‘closed’ adoptions. I have argued that a perspective that involves the lifelong “*best interests*” of children is more appropriate; and that such a perspective requires a very different and positive mindset about ‘openness’ in adoption, by direct post-adoption contact being actively promoted (in the majority of cases).
- 4.9 As I noted in a letter in The Times (published on 7/1/2012), the prospect of some negotiated mutually acceptable level of direct post-adoption contact, would be likely to reduce the numbers of long drawn out and hugely expensive care proceedings:

With regard to the issue of natural parents contacting their adoptive children by Facebook (this also occurs in the other direction) there is a crucial issue absent

from the discussion. Many local authorities still organise compulsory adoptions on the erroneous premise that successful adoption requires total cessation of direct contact between the children and their natural parents.

In most cases, particularly when the natural parents have learning difficulties, this is unnecessary, disproportionate and harmful to the lifelong best interests of the children concerned. Many parents facing compulsory adoption would agree to that outcome (or the alternative of special guardianship) so long as they were allowed to maintain a meaningful but distant relationship with their children by having occasional contact each year. It is only a very small minority of parents in this situation who are so potentially disruptive that this could not be considered to be safe.

Adoption practice in the UK needs to embrace the concept of open adoption (involving negotiated degrees of on-going direct natural parent contact). This would result in significant proportions of parents accepting this as a mediated outcome; and avoiding the extremely long delays and the massive expense that far too often occur in contested adoption proceedings. It would also eliminate the growing social networking sites problem. (Dale 2012: letter published in *The Times* 7<sup>th</sup> January).

4.10 I hope that the DoE will take the arguments in this paper into account, and revise the current proposals in ways that include and reflect the importance of policies, professional practice, and properly resourced services aimed at “*family preservation*” and family support. A revised version should:

- Remove the current draft proposals to restrict parent-child contact as this sets up a ‘direction of travel’ (presumption) against reunification/kinship care, in favour of adoption.
- Recommend the provision of specialist Reunification Services (to match existing specialist fostering and adoption services)
- Provide a positive focus on the benefits of kinship care (and the need for support services for kinship carers) for children who cannot live with their natural parents
- Support the principle of ‘open’ adoption for children who cannot live with their natural parents, and for whom no appropriate kinship care options are available. It is only a very small minority of natural parents who are so dangerous that ‘openness’ in adoption would be definitely contraindicated.

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