

BARNSLEY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

REPORT OF THE EXECUTIVE DIRECTOR CHILDREN'S SERVICES TO CABINET ON 17 NOVEMBER 2021

CHILDREN ACT (1989): OUTCOMES OF AN EARLY INDEPENDENT REVIEW OF LOCAL PRACTICE IN INITIATING SECTION 47 INVESTIGATIONS CONCERNING THE PROTECTION OF VULNERABLE CHILDREN

1.0 PURPOSE OF REPORT

- 1.1 To present for Cabinet's consideration the outcomes of an early independent review of local practice concerning the initiation of Section 47 (or S.47) investigations relating to the protection of vulnerable children from significant harm.

2.0 RECOMMENDATIONS

- 2.1 That Cabinet considers the outcomes of the Early Independent Review together with the action to be taken by the Local Authority in response, as outlined particularly in Paragraphs 4.10 to 4.13 of this report.

3.0 INTRODUCTION

- 3.1 On the 6 June 2021 the Sunday Times published an article in which elements of child protection practice in Barnsley were put under the spotlight. The article was based on a combination of statistical evidence, the direct experience of one specific family and generic commentary from experts within the field of child protection who were interviewed as part of the compilation of this article.
- 3.2 The article purported that Barnsley conducted above the national average of S47 investigations into alleged physical abuse on babies during the 2019/20 period and when added to the experience of families, concluded the Local Authority were unnecessarily interventionist in their approach. In addition, the article implied medical misdiagnosis and insensitive communication between social work staff and the family.
- 3.3 In response, the Barnsley Local Safeguarding Children Partnership (LSCP) commissioned an early independent review to consider the credence of the implications made by the Sunday Times.
- 3.4 National and Local Context
- 3.5 The review was undertaken in recognition of the following:

Section 17 of the Children Act (1989) places a statutory responsibility upon local authorities to "Safeguard and promote the welfare of children within their area who are *in need*". Under this section of the Act a child is determined to be in need if:

- (a) They are unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision of services by a local authority under this legislation
 - (b) Their health or development is likely to be significantly impaired, or further impaired, without the provision of such services; or if they are disabled
- 3.6 Section 47 of the Act requires a local authority to investigate whether it is necessary for it to take action in respect of a child who "*Is the subject of an emergency protection order or . . . is in police protection*" or where "*they have reasonable cause to suspect that a child . . . is suffering, or is likely to suffer, significant harm*".
- 3.7 Ofsted Inspection of Local Authority Children's Services in the Borough (2012 to 2018)
- 3.8 In 2012 Barnsley received a challenging Ofsted inspection which concluded that services for safeguarding children and looked after children were 'Inadequate'. The understanding of partner agencies regarding social care thresholds for intervention was described in that report as generally sound. Referrals were said to be assessed and responded to in a timely manner, but thresholds were not found to have been consistently and appropriately applied. Most referrals requiring a child in need assessment were said to be promptly undertaken, although some were said to remain unallocated for several weeks.
- 3.9 By the next inspection, in 2014, Ofsted were still making recommendations for local partners to establish a greater shared understanding and application of thresholds and for a review of working arrangements within the Children's Social Work Duty and Assessment Teams to sharpen the focus and clarity of contact and referral work. Ofsted also recommended that both the police and children's social care should develop a shared understanding of the level of risk to children and their families where domestic abuse is a concern.
- 3.10 During the most recent inspection, in 2018, Ofsted judged local authority children's services in Barnsley to be 'Good' and that there had been "*Steady improvement at successive inspections since 2012*". In relation to the scope of this early independent review, Ofsted particularly highlighted the following:
- o Almost all children who need help and protection receive a timely service that meets their needs. The integrated '*Front door*' is effective in managing risk and protecting children.

- Thorough assessments with a well-considered analysis of the risks affecting children lead, for the most part, to targeted plans and interventions which are improving outcomes and reducing risk
- The integrated '*Front door*' and multi-agency safeguarding hub (MASH) in Barnsley work well to protect children. The initial screening of referrals is strong.
- Thresholds are understood by partners, including those who are co-located and engaged effectively in the MASH. Robust arrangements are in place to safeguard children, including those at risk from the impact of domestic abuse.
- Parental consent is consistently sought and recorded, and when situations require consent to be dispensed with, the rationale for decisions is clear and appropriate

3.11 The Independent Review of Children's Social Care

- 3.12 Earlier this year, the DfE commissioned a national independent review aimed at taking a "*Fundamental look at the needs, experiences and outcomes of the children it supports*". This has included "*How the children's social care system responds to all children who are referred to the system*" including "*perceived inconsistencies in children's social care practice and outcomes across the country*".
- 3.13 The Chair of the Independent Review recently published an initial "*Case for Change*" report in which decision making and risk assessment relating to harm is considered too inconsistent and often not good enough in relation to child protection. Too much energy is spent on assessing and investigating families instead of providing support, which is described as costly and intrusive. There is a high level of anxiety when making decisions, both social workers and organisations continue to feel very vulnerable to public, regulatory and government scrutiny if things do go wrong. In essence, the "*Case for Change*" report describes an overly bureaucratic and risk sensitive system too focused on assessment/ investigation often to the detriment of supporting children and families.

3.14 The Sunday Times

- 3.15 In its article, the Sunday Times implied that Barnsley MBC is too interventionist, based upon our case and practice analysis. It should be noted that the distinction between S17 and S47 investigations under the Children Act (1989) is not always clear. Both are statutory interventions, and both should originate from multi-agency discussion and necessitate joint action from local, statutory partners.
- 3.16 Where both types of investigation differ is over issues of consent and the perceived focus of either protecting children from harm or providing support to those children in need of help. In both S17 and S47 investigations, the identification of risk and the development of appropriate ongoing support plans to reduce both risk and promote the health and development of children and

young people will be ongoing. In Barnsley both routes result in the completion of the same assessment (Child and Family Assessment).

4.0 PROPOSAL AND JUSTIFICATION

4.1 Through the preceding narrative, the matters considered through the early independent review, have been the subject of considerable development and improvement since Ofsted's inspection of 2012. It is evident that, by the inspection of 2018, significant progress in joint decision making at the Front Door to Children's Social Care had been achieved in Barnsley. However, the implications made in the Sunday Times article related to practice in the Borough during 2019/20 shortly after Ofsted awarded a 'Good' judgement and endorsed its practice.

4.2 However, in its response to the Independent Review's 'Case for Change' report the Association of Directors of Children's Services (ADCS) accurately commented that on the suggested tension between child protection and support these are parts of the same continuum and that "*Families' needs are not static, they fluctuate, and risk is dynamic*". The ADCS go on to say that:

"Government guidance, legislation and inspection all point to more state intervention not less. While the review takes the view that local authorities over assess and under intervene, this is not the view of the regulator. Assessment in and of itself is an intervention and a recalibration of the system to focus on the benefits of purposeful direct work with families and the change this can bring would be welcome".

4.3 Therefore, the early independent review took place within the context of this national debate concerning the current legislative framework within which the state engages with families, together with regulatory requirements.

4.4 Remit of the Early Independent Review

4.5 The review was led by Pete Dwyer CBE a former Director of Children's Services at both City of York Council and North Yorkshire County Council and the Department for Education's appointed commissioner for children's services at Wakefield MBC. The review was supported by Tracey Newcomb, a senior, experienced practitioner and leader who focused particularly on supporting the analysis of case files.

4.6 The early independent review was asked to form a view as to whether:

- Decision making on initiating S47 investigations during 2019/20 and potentially currently is proportionate and appropriate to the circumstances under consideration
- The quality of the information obtained as part of the investigative process, including medical advice and supports coherent decision making

- If joint investigation practice in Barnsley is driven by best practice in engaging families or overly defensive and serving procedural requirements or other issues
- Children subject to investigations are placed appropriately during the course of those investigations and that removal from parental care is always justified
- Practitioners present to families professionally with respect and sensitivity
- Key statutory partners initiating the review have a shared understanding of good practice in decision making and whether that view is reflected in current procedures supervision and guidance to staff

4.7 Review Methodology

4.8 As part of the early independent review, Mr Dwyer and his team conducted the following activity:

- Considered the quality of current practice in Children's Social Care, through evaluation of the number of identified cases in the relevant cohort (children aged 0-6 months during the period 2019/20) and examined decision making retrospectively through case file analysis and in a small number of cases conducted interviews with key operational staff. It did not involve any contact with the families involved.
- An analysis of key performance data relevant to the scope of the review including current performance data and to provide summary comparative analysis against other regional and national benchmarks
- A review of current written guidance and procedures
- Interviews with key decision makers including key partners notably the Local Authority, Police, primary and acute health bodies, together with the independent Chair of the Local Safeguarding Children Partnership.
- Direct observation of practice at the Front Door to children's social care/MASH in Barnsley where discussions with key managers and discussion of recent case decision making was completed

4.9 Outcomes Emerging Through The Early Independent Review

4.10 The overall conclusion of the review in response to the Sunday Times article is set out below:

4.11 There is evidence of a collective openness towards reflection and learning within children's social work practice. Ofsted has recognised the improvements made in Barnsley over the past decade and this has been reflected in the quality of practice and decision making in the cases considered. This progress is further confirmed by performance data with improved performance against key outcomes being generally delivered. The Local Authority has many skilled, knowledgeable, and committed practitioners and managers and local partnership arrangements are changing but appear strong.

- 4.12 There has been no evidence to conclude that Barnsley MBC is a local authority that is over interventionist, within the context of both current statutory requirements and regulatory expectations. There appears a genuine desire to work with families and an explicit culture which strives to build on the strengths and capacities of birth and extended families. Key comparative performance data also supports this overall conclusion.
- 4.13 In addition, the Local Authority is encouraged to inform local partners to maintain much of what is already in place but to:
- Continue to monitor closely through audit joint case decision making around S47 and initial child protection conferences to confidently challenge as to whether ever more families can be engaged on the basis of consent under S17.
 - Complete the review of the “Protocol for the management of actual or suspected bruising and/or injury in non-mobile infants” and in doing so, ensure that such children are not prematurely brought into specific S47 processes.
 - Jointly review decision making on the use of police protection powers and criminal prosecutions for neglect to assure that family engagement and least interventionist principles are well founded.
 - To reflect, on an ongoing basis, the importance of learning from challenges to medical/radiology assessments to ensure that risk of misdiagnosis is minimised, and that medical advice is always viewed in the context of wider holistic assessments.
 - Seek to ensure workforce development increases awareness both of risk but also protective factors and reconfirms the culture and practice expectations contained in local, detailed guidance.
 - Whilst moving to a new case recording system in Barnsley to ensure that it facilitates an ease of use with single data entry, such as options which make processes and documentation both intuitive and user /family friendly and releases capacity for ever more time on support to families.
 - Become ever more sophisticated and confident in the use of data, making explicit longer-term projections for what the ideal range of numbers of children at different stages of the system should look like, thereby avoiding any oscillation and debate over local variances.

5.0 CONSIDERATION OF ALTERNATIVE APPROACHES

- 5.1 No options were considered during the compilation of this report. It is imperative that following publication of the Sunday Times article concerning its initiation of S.47 investigations, dated 6th June 2021, that the Local Authority sought independent assurance of the quality and timeliness of decision-

making during 2019/20 onwards and which ensures it is compliant with legislation and regulatory expectations.

- 5.2 The outcomes of the early independent review provide verification that this has been the case within the context described in Section 3.0 of this report.

6.0 IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

- 6.1 Please see Paragraphs 5.1 and 5.2 of this report.

7.0 FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications directly emerging through this report.

8.0 EMPLOYEE IMPLICATIONS

- 8.1 The recommendations concerning the management of risks which have emerged through the early independent review will be incorporated within the Children's Services Continuous Improvement Plan which supports the Borough's Children and Young People's Plan, together with children's social care workforce development plans

9.0 LEGAL IMPLICATIONS

- 9.1 The early independent review considered how compliant the Local Authority and its statutory partners have been when discharging its statutory responsibilities for supporting children in need of help and those at risk of serious harm and in need of protection, under Section 47 of the Children Act (1989)
- 9.2 The review concluded that in recognition of the context described in Section 3.0 of this report, together with the scope of the review indicated particularly in Paragraphs 4.5 – 4.8, any concerns arising through the Sunday Times article are unfounded.

10.0 CUSTOMER AND DIGITAL IMPLICATIONS

- 10.1 There are no implications for customer access or digital transaction channels emerging through this report.

11.0 COMMUNICATIONS IMPLICATIONS

- 11.1 Given the public and professional concern which may have arisen through publication of the Sunday Times article and acknowledging that potential freedom of information requests concerning decision-making in relation to the initiation of S.47 investigations may be made, the Barnsley LSCP will communicate via its networks, how far its responsibilities under Section 47 of the Children Act (1989) contribute to promoting the welfare of children in the Borough.

12.0 CONSULTATIONS

- 12.1 Local statutory safeguarding partners, relevant agencies (under the Children and Social Work Act (2017)) and the Council's Senior Management Team have been consulted on the purpose and outcomes of the early independent review.

13.0 EQUALITY IMPACT

- 13.1 No reference was made to equality or inclusion within the Review. In terms of the quality of decision-making the Review noted the meaningful, respectful and sensitive way in which families were engaged and any specific needs met and that the quality of information and data was robust

14.0 THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK

- 14.1 Our work in compliance with Section 47 of the Children Act (1989) and in providing relationship-based, practical support to children, young people and families supports two of the twelve outcomes of the *Be Even Better* Strategy, namely that people are safe and feel safe and that people have access to targeted early help and support.
- 14.2 Whilst the outcomes of the review do not impact on any of our current Critical Success Factors, the learning derived will be incorporated into our Children's Services Continuous Service Improvement Plan and Children's Social Care Workforce Development Plan as part of informing improvements in the quality of practice as we begin to prepare for the next Ofsted inspection.

15.0 TACKLING THE IMPACT OF POVERTY

- 15.1 Whilst not directly related to the outcomes of this review the quality of children's social work practice and provision is informed by a greater whole-Council based, partnership led approach in understanding the impact of poverty upon vulnerable and troubled families where children may be at greater risk of potential harm and avoiding any escalation in formal intervention as part of the life course.

16.0 TACKLING HEALTH INEQUALITIES

- 16.1 Please see Paragraphs 14.2 and 15.1 of this report.

17.0 REDUCTION OF CRIME AND DISORDER

- 17.1 There are no specific implications for tackling crime, disorder or anti-social behaviour in the Borough, emerging through this report.

18.0 RISK MANAGEMENT ISSUES

- 18.1 Any potential risks to the Council's reputation following the publication of the Sunday Times article will be managed and mitigated through the Children's Social Care and Safeguarding Service's operational risk register.

19.0 HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES

- 19.1 It is worth reiterating that during the early independent review, no cases emerged where children were harmed as a result of any decisions made by the Local Authority in relation to its statutory responsibilities under Section 47 of the Children Act (1989)
- 19.2 There are no further implications for the public, workforce or the resilience of the Borough to a major incident emerging through this report.

20.0 COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

- 20.1 This report is compatible with the Articles and Protocols of the Convention, particularly in relation to the rights of children.

21.0 CONSERVATION OF BIODIVERSITY

- 21.1 There are no implications for the local environment, tackling climate change or the conservation of biodiversity arising through considering this report.

22.0 GLOSSARY

- 22.1 None, applicable.

23.0 LIST OF APPENDICES

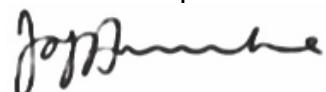
- 23.1 There are no appendices with this report.

24.0 BACKGROUND PAPERS

- 24.1 If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

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Financial Implications/Consultation



Joshua Amahwe (27/10/2021)

(To be signed by senior Financial Services officer
where there are no financial implications)