

# Transitions to adulthood: Some critical observations of the Children (Leaving Care) Act, 2000

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*The article argues that New Labour's concern with productive moral citizenship underlies the model of 'corporate parent' which informs the Children (Leaving Care) Act, 2000. We show that there has been in statutory child care work a rather uncritical acceptance of 'good parenting' leading to 'good outcomes', based on the 'Looking after Children' (LAC) system. The Children (Leaving Care) Act, 2000, has transferred significant duties from the social security system to local government social services departments for the payment of personal allowances and housing costs of young people leaving care. It has provided powers for the discretionary interpretation of their circumstances and provision for their welfare, all as part of a social work assessment called a 'Pathway Plan'. The government, through this legislation, presupposes that care leavers will benefit from a simulated experience of the transition to adulthood enjoyed by non-care leavers. The poverty and deprivation leading to social exclusion experienced by a significant minority of non care-leavers is in fact the financial baseline of the provisions in this legislation. It is therefore hardly surprising that we find inherent tensions and contradictions within the legislative framework and the context of its implementation for social services and the practice of social workers with care leavers.*

## Introduction

The explicit aim of the Children (Leaving Care) Act, 2000 is to improve the life chances of children leaving public care. In particular the Act is seen as providing the legislative framework for tackling issues of low economic participation, homelessness, poor health and educational outcomes for this social group (Broad, 1998; Biehal & Wade, 1999; Frost, 1999; Fitzpatrick, 2000). It reflects pledges in the White Paper, *Modernising Social Services*

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(Department of Health, 1998a) and *The Government's Response to the Children's Safeguards Review* (Department of Health, 1998b) to legislate for new and stronger duties to support care leavers. Speaking for the government, the Minister for Health John Hutton hailed the leaving care legislation as bringing 'historic changes that are long overdue' (John Hutton, Standing Committee A, 2000a, col.3). The Act builds on other initiatives, most notably the priority area within the Quality Protects Programme, of ensuring 'that young persons leaving care, as they enter adulthood, are not isolated and participate socially and economically as citizens' (Objective 5, cited in Department of Health, 1999, para.4.4).

Although there is a literature discussing the life experiences of young care leavers, (for example, Broad, 1998; Biehal & Wade, 1999; Frost, 1999; Fitzpatrick, 2000), it is not our intention in this article to rehearse these research findings, rather we provide a critical discussion of the notion of the Local Authority as 'corporate parent'. We argue that the rhetoric of the 'corporate parent' clearly reflects New Labour's pervasive concern with productive moral citizenship, grounded in a utilitarian discourse. Whilst we argue that the notion of *supporting* young people towards constructive biographies is a positive development, the rhetoric of debate around the Children (Leaving Care) Act 2000 and its associated guidance, fails to acknowledge the potential obstacles which social workers face in achieving this objective. We draw on and make comparison with the development of the 'Looking after children: Good Parenting, Good Outcomes' (LAC) system and argue that inherent to the development of LAC and the Children Leaving Care Act, is an uncritical acceptance of a linear relationship between 'good parenting' and 'good outcomes'. We tease-out some potential complexities of the social worker–young person relationship arising from the mandate of the 'corporate parent', arguing that further research is needed which explores how social workers manage the tensions and contradictions inherent in the role of corporate parent.

## **Charting developments towards the Act**

The majority of literature which charts developments leading up to the Children (Leaving Care) Act 2000, tends to cite research findings concerning the poor quality of support and/or poor outcomes for young people as being instrumental in effecting policy change. However, there is also a pervasive sub-text of utilitarianism evident in the official documentation leading up to the Act, which is less well documented.

This utilitarian discourse was preoccupied with the failure of the public

care system to ensure care leavers made a successful transition into *paid* employment. The focus was on the financial incentives within a system where ‘care’ and ‘cash’ support were separated; a core principle of the Beveridge welfare state settlement. This separation was held to create perverse incentives, the consequence of which was an increase in the proportion of young people leaving the care of social services when they reached the age of 16. In 1993, 33 per cent of care leavers left at the age of 16. This proportion had increased to nearly a half (46 per cent) in 1998 (Department of Health, 1999, para. 2.1). It was claimed the increase was due to a ‘perverse incentive in the present system for local authorities to shuffle children off their budgets and onto the social security budget’ (John Hutton MP, HC Debs, 2000a, col.366). Essentially the government case was that SSDs judged it to be to their advantage if care leavers were the responsibility of the social security budget. Further, the government were claiming that care leavers were experiencing social exclusion because SSDs had taken a fiscal stance which led to them losing contact with their care leavers. With little or no contact SSDs could not ensure that care leavers were firmly on the track to a settled and ‘inclusive’ adulthood. However, it was argued that the Children (Leaving Care) Act, 2000 would ‘remove that incentive and recognise that young people in and leaving care need proper support and guidance, and not just cash’ (John Hutton MP, HC Debates. 2000a, col.363). Exploring the idea of ‘corporate parent’ will clarify these issues.

## **The ‘good parent model’ and the Act**

In the Forward to the consultation document, *Me, Survive Out There?*, the then Secretary of State for Health, Frank Dobson MP noted:

In developing the arrangements I asked everyone involved to look at things from the point of view of the young people and to ask, ‘Would this have been good enough for me when I was a child?’ or ‘Would this would be good enough for my children?’ (Department of Health, 1999, p.5)

During the development of the Children (Leaving Care) Act, 2000 politicians from all parties referred in particular to the second of Dobson’s rhetorical questions, whose normative assumptions led to discussion about the Act being structured around either ‘good’, ‘responsible’ or ‘normal’ parents. Hence for the parliamentarians the corporate parent was to be constructed via an idea of what ‘good parents’ or the ‘normal family’ could be expected to do and to provide for their children. As Frank Dobson MP told the House of Commons (House of Commons Debates., 2000a, cols. 377-378):

The Bill tries to make society, as corporate parents, do what might be described as what normal parents do.

...We asked officials to prepare a paper spelling out what ordinary families do or try to do, not necessarily continuously, but intermittently, for their own children between the ages of 16 and 21. The main thing is to provide a home to live in, or return to. Then there is the shoulder to cry on, the encouragement to do a bit more work at school or college, the morale-boosting chat before going to an interview, the consolation afterwards if the interview goes wrong, or celebration if the interview goes right. Young people want someone to provide a lift when they want to go somewhere, a meal, or, when they are bit older, someone to take them for a drink, someone to get the washing done, someone to touch for a tenner when they are skint, someone to keep an eye on them, someone who cares about them.

For Dobson 'normal parents' provide a range of practical, emotional and financial supports. As far as possible the aim under the Act should be 'to do what a family does, we should try to enable the person designated as being responsible for a young person to do all those things [listed above] or to arrange all those things, so far as that is possible' (*ibid.*, col.378).

We argue that Dobson's comments relating to 'normal parenting' should be considered in the context of New Labour's communitarianism. Families are defined by New Labour as the primary site for ensuring that children are raised to be responsible and productive members of society. The clearest statement of this is New Labour's concern with what it defines as feckless and irresponsible parents who are alleged to collude in their children's deviancy and criminogenicity (see Goldson and Jamieson, 2002). Complex and socio-economically situated activities including truancy, anti-social and offending behaviour are reduced to an alleged unwillingness of particular parents to take seriously their duties and responsibilities to themselves, their children and wider society (cf. Deacon, 2000). Following Deacon, it is possible to argue that the government's central concern here is with responsible corporate parenting and discipline. Young people leaving care will not be socially included in adulthood if they do not have a responsible and disciplinarian corporate parent.

A key theme in debates about the Children (Leaving Care) Act, 2000 was how to produce productive moral citizens. Conservative MPs were most concerned to ensure that if the provision for care leavers was to reflect the support that 'ordinary' families give children then there should be ways of disciplining care leavers who refuse to engage with the contents of their Pathway Plans. Philip Hammond MP outlined the argument in the second reading debate (House of Commons Debates, 2000a, col.370):

Families are all different, but many ... expect children and young people to acknowledge certain obligations in exchange for the support and maintenance they receive. Few of us will not remember being told at some point, 'If you're not going to buck up your ideas, don't think you're going to lounge about for ever under my roof'. So should it be for the children and young people covered by the Bill.

He developed his ideas during the committee stage of the Bill by focusing upon further and higher education (Standing Committee A, 2000b, col.22):

Many families find it financially strenuous to support children in further or higher education, but are happy to do so as the basis of an implicit contract whereby the child or young person commits himself or herself to a diligent pursuit of the pathway to which the family has agreed. We are trying, as far as possible, to simulate the situation in a normal, functioning family.

For the Conservatives it was important to embrace the common sense behaviourism of the 'normal family' to ensure that young people pursued the contents of the Pathway Plan:

We all operate with carrots and sticks – there are few people who would get up at 6 am if they were not incentivised to do so and disincentivised to remain in bed. That is how we operate – that is the nature of human beings. (Phillip Hammond MP, Standing Committee A, 2000c, col.58)

Hammond placed his concerns for the simulation of familial discipline in the context of New Labour's wider agenda of tackling social exclusion by comparing the Children (Leaving Care) Act, 2000 to the 'options' stage of the New Deal for Young People:

the Minister will correct if I am wrong ... young people should be given opportunities for education, training or work, but that there should not be a fourth option of life on benefit. That option should be available only for the very short term, to help someone over a particular problem ... However, I am concerned that in seeking to simulate for children in care and leaving care the situation of children who have been more fortunate, we also inadvertently create a fourth option for children leaving care, because there is no sanction to deal with a young person who refuses to undertake education, training or work. (*ibid.*, col.24)

Hammond's concerns find clear expression in the Children (Leaving Care) Act, 2000, although his somewhat mechanistic rational agent mode of

utilitarian social justice was not without its critics from within New Labour and from Liberal Democrat MPs. For New Labour, Julie Morgan MP criticised Hammond's ideas on the need for sanctions in relation to 'young people [who] have disturbed and damaged private lives' (Standing Committee A, 2000b, col.27), while Liberal Democrat MP Peter Brand noted that: 'Parents do not care conditionally; they have a duty of care whether they like the sods or not. It is important not to lose sight of that, and bear in mind that young people are not always compliant' (House of Commons Debates., 2000a, col.380). It appears to have escaped some of our elected members that children are in the care of local authority social services departments for social reasons of a complex and serious character, rather than their personal choice. These children have definitely not chosen the circumstances in which they find themselves.

The concerns enthusiastically aired by Philip Hammond in the parliamentary progress of the Bill were also those prominent in the *Regulation and Guidance* to the Act, (Department of Health, 2001, p.65):

A good parent uses rewards and incentives to encourage a child in achievement. In more difficult circumstances though a parent would not make children homeless, or cease to feed them, if they behaved badly. However, the parent might apply sanctions such as a loss of privileges or would withdraw funding if it was being abused.

Clumsily and insensitively (given the circumstances of just about every child abuse case leading to death one can recall) the *Regulation and Guidance* is pointing out the obvious: that the responsible authority has a duty to provide support for maintenance and accommodation which cannot be withdrawn in an attempt to sanction uncooperative care leavers. However, other forms of support could be paid as an incentive or withdrawn as a sanction to ensure care leavers complied with the items listed in their Pathway Plans.

The closeness of Conservative concerns with the need for disciplinary mechanisms, and also its clear expression in the *Regulation and Guidance*, demonstrates the closeness of the two main political parties over individual responsibility. Just as welfarist discourse became structured through a moralising individualism about an alleged 'underclass' when the Conservatives were in government, the 'anglicanised communitarianism' of new Labour helps to structure today's welfarist discourses in a similar vein (cf. Deacon, 2000). As Driver and Martell (2002, pp.75-78) note, rather in the style of a TV home improvement show, new Labour's 'Third Way' involves the fostering of 'traditional values in a modern setting'. In this sense the traditional value of responsibility has become inextricably linked to rights in an attempt to tackle the 'something-for-nothing welfare state'. According to the Health

Minister, John Hutton MP (House of Commons Debates., 2000b, col.654) the Children (Leaving Care) Act, 2000 was not to be exempted from the 'rights and responsibility' agenda that now drives welfare interventions. He described the following as being part of that agenda:

Assistance for [care leavers over 18] ... will consist of help with employment, education and training or general matters. Such help will normally be agreed between the young person and the responsible authority and will be given for specific purposes.

Councils are under a duty to provide such assistance to the extent that someone's welfare or his educational and training needs require it. If someone is not co-operating with the council, the council will be entitled to consider that his welfare does not require that assistance. That is hardly ... a blank cheque. A Pathway Plan, setting out such assistance, will be reviewed regularly and as frequently as necessary. Clearly that is not a licence for relevant children to stay in bed all day ... while limitless funds flow into their bank account (*ibid.*, col.652).

The Conservatives actually wanted the Bill amended to include mandatory disciplinary measures, whereas the Health Secretary wanted to avoid being that prescriptive (*ibid.*, col.654). SSDs are left with discretionary powers to discipline care leavers when social workers believe it to be necessary. This raises a number of issues, the most important of which is how the potential to impose financial sanctions might impact upon relationships between care leavers and their social workers.

## **Social work-client relationships and the Act**

### **Good parenting and good outcomes?**

Since the publication of the Utting report in 1997 social work with children in, and leaving, public care has come under increasing scrutiny. The poor outcomes for children in public care have been proclaimed a national disgrace (Utting, 1997; Butler and Payne, 1997; Department of Health 1998c). In large part, the failure of leaving care services has been attributed to the piecemeal and inconsistent nature of the services offered by different social services departments. In contrast, we have seen that the Children (Leaving Care) Act 2000 is judged by policy makers to provide the necessary remedial legislation and monetary support to ensure local authorities provide consistent and comprehensive services to improve the lives of young people. In this context,

those working directly with young people such as social workers and personal advisors are charged with the *responsibility* of improving outcomes for young people.

This 'official' rationale for the development of the Act needs however to be situated in relation to the broader critique of developments which aim to ensure improved outcomes for children and young people who are at risk of social and economic exclusion (France and Wiles 1997; Garrett 1999, 2002; Hyland and Musson, 2001). Of particular relevance to our discussion is the critique of the Looking After Children: Good Parenting, Good Outcomes (LAC) system provided, amongst others, by Garrett (1999, 2002).

The LAC system, in a similar vein to the Children (Leaving Care) Act, 2000, has as its essence the improvement of outcomes for children in public care. As with the Act, the mandate for good social work practice in the LAC system is premised upon notions of what a 'good parent' is and/or does. Garrett (2002) provides a useful critique of the research evidence which led to the development of the Action and Assessment Records (AARs) which are an integral part of the LAC system and now also form part of the 'Framework for the Assessment of Children in Need and their Families' (Department of Health, 2000). Garrett (2002) argues that while the evidence providing the rationale for AARs is frequently mobilised to validate their now widespread use, there was a lack of rigour in the collection of that evidence. In particular, Garrett identifies problems with how notions of good parenting had been determined (*ibid.*, p.836). He argues that the sampling strategies which had aimed at establishing an objective measures of good parenting disqualified certain populations of parents from the research study, thus 'it becomes apparent that some parents and their understanding of the task of parenting were excluded.' Garrett cites Ward (1995, pp.24-25) who concedes:

in spite of being able to pay an interview fee, we found that in some of the more deprived (sic) districts substantially fewer families were able to participate than in other areas.

Garrett tentatively concludes that 'many parents and perhaps their differing perceptions and approaches to parenting are pushed out of the analytical frame' (2002, p.837). In addition, Garrett argues that proponents of the AAR system have failed to interrogate critically the normative claims about what constitutes good parenting which he had earlier highlighted (Garrett, 1999) and which remain central to the LAC system:

a number of the questions featured in the AAR schedules imply that value-judgements are being made about an appropriate way to live and appropriate life styles' for example 'looked after children aged 15 are asked about wedding arrangements' (*ibid.*, p.299).



In drawing attention to a particular section of the AAR entitled ‘Social Presentation’, Garrett (1999, p.300) notes that questions were implicitly based on ‘a picture of a well ordered society, a template of the normal child’. Following on, he argues that the focus is upon assisting the child to adjust to the normative demands of mainstream society. He highlights his point by noting from the AAR the question: ‘do you know how to *adjust your behaviour* and conversations to different situations (e.g. at work, college or school, with friends, *teachers or managers?*)’.

What we can see by taking the discursive construction of the ‘corporate parent’ through reference to ‘good parenting’ in both the LAC system and the later Children (Leaving Care) Act, 2000, is that there is an assumed linear relationship between good (corporate) parenting and the ‘good outcome’ of the production of socially included and morally competent care leavers. This assumption however, may be misplaced as we go on to highlight the inherent tensions and contradictions which the utilitarianism of the Children Leaving Care Act, 2000 presents for those who are charged with ensuring ‘good outcomes’ for young people.

### Corporate parenting, outcomes and the Act

The structure of the financial support through the ‘good parent’ model has, as we have seen, left the possibility for the discretionary disciplining of care leavers through financial incentives and sanctions. In addition, the *Regulations and Guidance* (Department of Health, 2001, p.62) points out that it is unlikely that all needs will be met because of the limits on each SSD’s budget:

It is self-evident that the authority operates within limited resources and that there will from time to time be competing demands on those resources from different children, and that they may not always be able fully to meet all those demands.

In the spirit of the rest of the Act this reflects the experience of many ‘ordinary’ families: that they cannot meet the demands of their children all of the time. However, as corporate parents, the prioritisation of need with which SSDs will have to engage could add further ambiguity to their role of providing support for care leavers. The *Regulations and Guidance* make it clear that 16 and 17 year old care leavers must receive support for accommodation and maintenance costs. It is less clear about support for expenses associated with education, training and employment. At one point the *Regulations and Guidance* (*ibid.*, p.63, emphasis added) notes that ‘the responsible authority

*must provide* assistance, which may be in cash, to meet the relevant child's needs in relation to education, training and employment as set out in the Pathway Plan'. However, in the following paragraph it notes that travel costs associated with education, educational material and equipment and other educational costs are 'items to be *considered* a priority for funding' (*ibid.*, emphasis added) alongside things such as the costs of clothing, expenses connected to maintaining contact with family and other significant people, and the costs of hobbies and holidays.

In many ways the cash-limited nature of the potential support for care leavers contradicts the idea that the aim is to tackle social exclusion in its broader sense of exclusion from 'mainstream' cultural practices and material lifestyle, for it is only the subsistence of care leavers that is guaranteed. Other activities with which 'included' people engage – holidays, hobbies, visiting friends and relatives – are to be dependent upon the state of the budget and the behaviour of care leavers. This 'contingent inclusion' of care leavers reflects the contradictions of welfare interventions that are structured through financial prudence and selectivity in addition to what Driver and Martell (1997) describe as New Labour's conditional and morally prescriptive communitarianism.

This observation raises questions about the potential effects on the relationship between care leavers and their social workers, for social workers may become embroiled in potentially conflicting 'negotiations' with care leavers over monetary issues. There is a realisation that the Children (Leaving Care) Act, 2000 will only be effective if care leavers have trust in the procedures and personnel involved. As John Hutton MP noted: 'the on-going relationship between a young person and his or her adviser or members of the care team looking after that young person must be based on trust, confidence and mutual respect' (Standing Committee A, 2000b cols. 27-28). How far the Children (Leaving Care) Act, 2000 will encourage trust and confidence is debatable, for while even if the care leaver's personal adviser (who may also be their social worker) may follow a needs assessment model to determine the financial support required, in the final analysis it will be judgements about the state of the budget and the behaviour of the care leaver that will dictate if their *genuine* need is met. Because of the normative assumptions of the 'good parent' the potential for conflict and tensions between the corporate parent and the care leavers has not and perhaps cannot be resolved.

The consultation document, *Me, Survive, Out There?* (Department of Health, 1999) does hint at the possibility of tensions because of personality conflicts between social workers and care leavers. However, given the issues discussed above, there may be more fundamental problems associated with the structure of the policy that could impact upon the relationship between SSDs and care leavers. This is an important point because, as we have seen,

the Children (Leaving Care) Act, 2000 withdraws the right of 16 and 17 care leavers to claim Income Support. If care leavers break off contact with SSDs because of what they perceive as unfair levels of support or the unjust withdrawal of support, they will not have recourse to any form of social security support. This point was raised in debates on the Children (Leaving Care) Bill. For example Peter Brand MP pointed out (Standing Committee A, 2000d, cols. 130 and 131):

It would need someone more optimistic than even a Liberal Democrat politician to assume that the relationship [between care leavers and SSDs] will always work out well, in a way that we all hope that the Bill will encourage. As has happened not infrequently in my clinical practice, I can envisage a complete breakdown between a young person and figures of authority. ... That is a genuine problem. People will deny themselves support because they will feel as a matter of principle that they should not talk to the local authority, because it has somehow offended them.

... If someone turns up in London and refuses point blank to get in touch with a local authority that he feels has dumped on him all his life, or at least for the past six months, what mechanism will be in place?

Missing Brand's point, the Minister of Health, John Hutton MP responded that the young person only had to stay in contact with the his/her personal adviser to continue receiving support and that 'the new arrangements provide financial support for young care leavers when a relationship breaks down and difficulties arise' (*ibid.*, col.136). This so-called 'emergency assistance' (Department of Health, 2001, p.65) is dependent upon the young person contacting the local authority in the area to which they have moved. The care leaver has to contact the new SSD; that was Brand's point. The problem here is that because of the withdrawal of Income Support the disillusioned care leaver could actually end up in a worse financial situation than they would have been before the Act was introduced.

## **Conclusion**

In a recent article in the *Guardian* (7th February 2003) Polly Toynbee warned against complacency in relation to social policy analyses. Her concern was with the withdrawal of funding by the Joseph Rowntree Foundation for the Low Pay Unit. Her main concern was with what she described as a 'tick-box' approach to politics 'where announcing a policy is dangerously assumed to be same thing as achieving it'. Her note of caution should be welcomed and is not lost in relation

to the Children (Leaving Care) Act, 2000. While undoubtedly the Act represents an important development in policy for care leavers, its potential to increase their life chances is restricted by a number of philosophical and empirical issues. So, for example, the Act's utilitarianism reduces the actions of SSDs and young people to a crude financial behaviourism, the logic of which can be seen in relation to the issue of sanctions for care leavers who are judged to be wilfully uncooperative and disengaged from their Pathway Plans.

However, the issue that raises most concern with the Children (Leaving Care) Act, 2000 is the idea that the experiences of care leavers can, and should be, premised upon what 'good' or 'normal' parents can provide and do for their children. There is a contradiction between the idea that care leavers should essentially be treated the same as 'normal' young people and the desire to socially include the former. This is because there is a wide gulf between what policy makers seem to believe the level of 'inclusion' is for 'normal' young people and the actual experiences of young people who are disproportionately affected by poverty, multiple deprivation and unemployment. In addition, we have seen that new Labour believe care leavers should be exposed to simulations of financial discipline regimes that 'normal' families are held to enforce.

This point raises important questions about the possible effects of the Children (Leaving Care) Act, 2000 upon the nature of the relationship between care leavers and social workers and SSDs. In the worst case scenario – the breakdown of the relationship between the care leaver and SSD – the former may be left, because of the withdrawal of the right for 16 and 17 year care leavers to claim Income Support and Housing Benefit, even more excluded than they might have been under the previous system. Research (for example, Stephenson, 2001) indicates that there are alternative methods of gaining 'social membership' and 'social capital' other than those prescribed by the state. Evidence from analyses related to the New Deal for Young People and Connexions also indicates that even when young people are targeted with interventions which aim to promote social cohesion, it is those with the most disrupted biographies who fail to engage with such policies (Hyland and Musson, 2001; Britton *et al.*, 2002). Such findings also point to the problems with the assumed linearity of the relationship between 'good' corporate parenting and good outcomes for care leavers which has concerned us.

We raise these issues as a warning against complacency that the difficulties faced by care leavers have been solved by the Children (Leaving Care) Act, 2000. What is actually required is a research programme that examines the way in which SSDs are meeting their duties under the Children (Leaving Care) Act, 2000, in particular the ways in which they are actually supporting care leavers financially and how they are managing sanction regimes and competing demands upon their care leaving budgets.

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