

The Centre for
Social Justice

Green Paper
on the Family

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SOCIAL
JUSTICE

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Foreword

Over the past five years the Centre for Social Justice (CSJ) has been examining the scale and nature of social breakdown in Britain. We have sought to understand the key drivers behind this breakdown, in order to make policy recommendations for addressing its causes, rather than simply its symptoms. It is to this end that we identified the five pathways to poverty: family breakdown, economic dependency and worklessness, educational failure, addiction and personal indebtedness.

All five pathways are interconnected, and the presence of one greatly increases the likelihood of another. However, over the course of our research, and in particular in speaking with thousands of individuals and organisations tackling poverty at the coalface, we have found that *family breakdown* is often at the root of the other pathways. Hence a child not growing up in a two-parent family is 75 per cent more likely to fail at school, 70 per cent more likely to be a drug addict, 50 per cent more likely to have an alcohol problem, 40 per cent more likely to have serious debt and 35 per cent more likely to experience worklessness.

The peculiarly high levels of family breakdown found in Britain are at the heart of the social breakdown which is devastating our most deprived communities and fracturing British society in general. It is unthinkable that in one of the wealthiest countries in the world, an entire section of society is dislocated from the rest, excluded from the mainstream and plagued by crime, worklessness and addiction.

Strengthening families is vital, both to the health of Britain and in ensuring a more socially just society. We cannot ignore the wealth of evidence showing that the family environment in which a child grows up is key in determining their future life outcomes. A child growing up in a fractured, dysfunctional or chaotic family is far less likely to develop the pro-social systems essential for success later in life. They are less likely to do well at school and more likely to become involved in negative behaviour such as offending and substance abuse. Right from their earliest years they are at a disadvantage to their peers. Family structure and process matters.

Yet despite evidence clearly demonstrating the importance of stable, healthy and, in particular, married families, current policy does not reflect this. The Government has instead focused entirely on the child, rather than the family as a whole, and up until recently had refused to acknowledge that children of married parents do better across a wide range of indicators than

those with co-habiting or lone parents. It is not just the children who benefit. For example, the difference in health outcomes between a single man and a married man are the equivalent of a smoker who gives up smoking for life.

If we are to improve the lives of both adults and children, particularly those living on low incomes, then we must support and strengthen families.

I was struck by the recent OECD report which revealed that despite having lower than average levels of child poverty, and higher than average family incomes, outcomes for children in the UK are amongst the worst of all OECD nations. OECD data also shows that the UK has some of the highest levels of lone parenting and family breakdown, as well as very high levels of alcohol and drug consumption amongst our young. Most studies show that it is stable families and good parenting that have a positive effect on children's outcomes, not just the simple transfer of monies, and this OECD research confirms this.

All the evidence shows that government in the UK has become indifferent to the institution of marriage, in so doing it has damaged society. You cannot mend Britain's broken society unless you support and value the institution which is at the heart of a stable society. In a recent poll, a majority said that if two parents stayed together then they would be financially worse off. Recognising this, an even larger proportion of the public went further; they wanted government to recognise marriage in the tax system. If the public 'get it' so clearly then perhaps it is time politicians stopped saying they can't afford to support marriage and instead answered the question, how can we afford not to?

The following green paper sets out a blueprint for supporting and strengthening families. If implemented, the policies outlined below will improve the lives and outcomes of children and adults in Britain. They will also create a stronger, more cohesive and more successful Britain.



Rt Hon Iain Duncan Smith MP

Chairman, Centre for Social Justice

CHAPTER ONE

The importance of family

1.1 Stable families are at the heart of strong societies

Stable, healthy families are at the heart of strong societies. It is within the family environment that an individual's physical, emotional and psychological development occurs. It is from our family that we learn unconditional love, we understand right from wrong, and we gain empathy, respect and self-regulation. These qualities enable us to engage positively at school, at work and in society in general. The absence of a stable, nurturing family environment has a profoundly damaging impact on the individual, often leading to behaviour which is profoundly damaging to society.

Family breakdown is particularly acute in our most deprived communities. In these areas the concept of society is, for many, alien; whole communities are socially excluded from the mainstream. It is in these areas that we witness the highest levels of worklessness, addiction and offending. If we are to create a fairer, more socially mobile society then we must invest in strengthening families.

A strong, successful and cohesive Britain needs strong families.

1.2 Improving the lives of adults and children

An individual's outcomes are intimately linked to their family experience, for both adults and children. A wealth of national and international research

demonstrates the devastating and long-lasting impact that family breakdown has on all involved. If we are to improve outcomes for all – from their physical and mental health to their practical achievements in work and life – then we must support and strengthen families.

This requires recognition that not all family forms lead to equal outcomes. To ensure the greatest well-being for individuals, as well as for society, we must recognise the importance of family *structure* and *process*. Policy must be evidence-led, and the evidence clearly shows that children and adults in married couple families do best across a wide range of indicators. Government must seek to support that which delivers the greatest benefits to the greatest number.

'My dad walked out when I was young. Once my mum had a new boyfriend, she had more time for him and less time for me. I started going wrong at school. My head just went everywhere. Come 14 or 15 I dropped out of school. I got into fights hoping that I wouldn't live through. I took drugs.'

YMCA tenant

1.3 Supporting people's aspirations

Demographic shifts in family structures are often used to cite the decline of the traditional family, and in particular to argue that the institution of marriage is outdated. However sadly, far from reflecting the active choice of individuals, the trends of the past few decades run contrary to people's aspirations. Three quarters of under-35s currently in a co-habiting relationship want to get married,¹ almost 70 per cent of adults would choose marriage and children as their lifestyle preference² and, perhaps most importantly, virtually 90 per cent of young people aspire to get married.³

It is within our most deprived communities that family breakdown is most prevalent, not because people in these areas do not aspire to get married and form stable, committed relationships, but because they are most likely to be thwarted in such aspirations. Family breakdown for most low-income families is not the 'progressive' choice that some present it as, it is the devastating result of financial, emotional and relational poverty.

Recognising and supporting married couple families not only supports the most stable family form, but also supports people's aspirations; across the socio-economic spectrum.

1 *British Household Panel Survey*, 2009, Institute for Social and Economic Research

2 MORI Polls & Surveys, 1999, *Family and Marriage Poll*. (MORI Corporate Communications.)

3 The Opinion Research Business, 2000, *Young People's Lives in Britain Today*. London: The Opinion Research Business

CHAPTER TWO

The need for reform

2.1 The scale of family breakdown in Britain

Family stability in Britain has been in continuous decline for four decades. Since the 1970s there has been a decline in marriage. Over the same period there has been a marked increase in the number of lone parents, with a quarter

of all children now growing up in single parent households.⁴ A further one in four children are born to cohabiting couples.⁵ Around one in ten families with dependent children are stepfamilies.⁶

Sadly, 15 per cent of all babies are born and grow up without a resident biological father⁷ and seven per cent are born without a registered father on their birth certificate.⁸

Britain has the highest divorce rate⁹ and highest teenage pregnancy rate in Europe,¹⁰ with the teenage pregnancy rate actually rising between 2006 and 2007. Children of teenage mothers are twice as likely to have a teen birth

themselves compared to their contemporaries born to older mothers.¹¹

Tragically, at least one in three children will experience family breakdown, in the form of parental separation, by age 16.¹²

‘My parents have split up...I don’t get to see my dad much and it makes me sad and I cry every night. I’ve started drinking alcohol behind my mum’s back and also wet the bed.’

Claire, 13

2.2 Family form matters

Politicians and policy makers in Britain have typically shied away from distinguishing between family structures. They have become scared that they may upset someone if they talk of two parent families. Too many hide behind the mantra that it is just about personal choice and that Government has no

4 Office for National Statistics, 2007, *Social Trends 37*
5 Kiernan,k. And Smith, k., 2003, *Unmarried Parenthood: New Insights from the Millennium Cohort Study*, Population Trends, 114
6 Office for National Statistics, *Social Trends 37*, 2007
7 Centre for Social Justice, 2006, *Fractured Families*
8 Office of National Statistics, 2007, *Birth Statistics: Births and Patterns of Family Building , FM1*
9 González L & Viitanen T.K, 2006, The Effect of Divorce Laws on Divorce Rates in Europe Discussion Paper No. 2023, IZA (See Table 2)
10 Social Exclusion Unit, 1999, *Teenage Pregnancy*
11 Ermisch, J. And Pevalin, D., 2003, *Who has a child as a teenager?*, IESR working paper 2003-30
12 Rodgers, B. And Pryor, j., 1998, *Divorce and Separation: The Outcomes for Children*, JRF

opinion. Yet it is the government which has to pick up the cost of family breakdown, and not just the direct costs, (£20-24bn) but also the many indirect costs such as increased drug and alcohol abuse, debt, educational underachievement, unemployment and crime.

We reject the notion that policy can or should be wholly neutral. Evidence shows different family structures to have different outcomes, and therefore policy should support that which is in the best interests of society.

- Committed, in particular married, couple relationships produce the best outcomes for adults and children
- Children do best when living with both biological parents
- If you have experienced family breakdown as a child you are more likely to experience family breakdown as an adult

2.2.1 MARRIAGE AND CO-HABITATION ARE NOT THE SAME THING

Evidence shows that children do better living in two-parent rather than single parent households. However, although cohabiting parent families are likely to lead to improved outcomes for children compared with their single parent counterparts, co-habitation does not lead to the same degree of improvement as marriage.

Married couple relationships are significantly more stable than cohabiting relationships: regardless of socio-economic status and education, cohabiting couples are between two and 2.5 times more likely to break-up than equivalent married couples. Indeed, just one in 11 married couples split up before their child's fifth birthday compared to one in three unmarried couples.¹³

The difference in stability between marriage and co-habitation is of fundamental importance, yet Government policy has failed to recognise this.

Marriage is also directly linked to better mental and physical health amongst adults, including lower mortality risk, significant reductions in depression, lower risk of suicide and lower incidence of acute and chronic conditions.¹⁴ Crucially, research has found that unmarried individuals living alone are no more distressed than co-habiting (unmarried) couples – it is, specifically, a 'Marriage Effect'.¹⁵

2.2.2 THE IMPACT OF FAMILY BREAKDOWN ON CHILDREN

As with adults, experiencing family breakdown has an adverse affect on a child's physical and mental health. It is also linked to higher levels of abuse, lower levels of achievement in education, the development of behavioural

13 Benson, H., 2006, *The conflation of marriage and cohabitation in government statistics – a denial of difference rendered untenable by an analysis of outcomes*, Bristol Community Family Trust

14 Ross, C.E., Mirowsky J. and Goldsteen, K., 1990, 'The Impact of the Family on Health, A Decade in Review', *Journal of Marriage and the Family*, Vol 52, No.4; Lamb, K., Lee, G. And Demaris, A., 2003, 'Union Formation and Depression: Selection and Relationship Effects', *Journal of Marriage and the Family*, 65; Anson, O., 1989, 'Marital Status and Women's Health, the Importance of a Proximate Adult', *Journal of Marriage and the Family*, Vol. 51

15 Hughes, M. and Gove, W., 1981, 'Living Alone; Social Integration and Mental Health', *Journal of Sociology* Vol 87, No. 1

problems and engagement in destructive activities such as offending and substance misuse.

1. The physical and psychological impact

Incidences of child abuse are much higher where there has been family breakdown. Children growing up in lone parent or broken families are 3 to 6 times more likely to suffer serious abuse than children growing up with both biological parents.¹⁶ Women and children are significantly more vulnerable to violence and neglect in co-habiting rather than married families; family breakdown dramatically increases the risk of domestic violence.¹⁷

Children born to married parents have lower rates of infant mortality – with children of lone parents having a higher infant mortality risk than those of co-habiting parents, who in turn have a higher risk than those of married parents¹⁸ – and better mental health outcomes than children who do not have married parents.

Children of lone parents are twice as likely to suffer from mental health problems than those living with two parents, and the prevalence of mental health issues amongst children of co-habiting parents is over 75 per cent higher than amongst those of married parents.¹⁹

This is perhaps unsurprising given the emotional and psychological repercussions of, for example, experiencing your parent's separation or not knowing or seeing your father, as well as the higher incidence of abuse and neglect in broken families.

Polling for *Breakdown Britain* (2006) found that if you are not brought up in a two-parent family you are:

- 75% more likely to fail at school
- 70% more likely to be a drug addict
- 50% more likely to have an alcohol problem
- 40% more likely to have serious debt problems
- 35% more likely to experience unemployment/welfare dependency

16 Cawson, P., 2002, *Child Maltreatment in the Family: The experience of a national sample of young people*, NSPCC

17 Kiernan, K. And Estaugh, V., 1993, *Cohabitation: Extra-Marital Childbearing and Social Policy*, Family Policy Studies Centre; Mirrlees-Black, C., 1999, *Domestic Violence: Findings from a new British crime survey self-completion questionnaire*, Home Office

18 Schuman, J., 1996, 'Children, Infant and Perinatal mortality. Social and Biological Factors in Deaths of Children Aged Under 3', *Population Trends*, 92

19 Meltzer, H., Green, H., McGinnity, A., Ford, T. and Goodman, R., 2005, *Mental Health of Children and Young People in Great Britain, 2004*, Department of Health

2. Poor outcomes

It is difficult to isolate causal effect when looking at the relationship between family breakdown and various adverse outcomes for children, factors such as poverty also show strong correlation. However, the correlation between family breakdown and educational failure, alcohol and drug abuse, early sexualisation and offending is clear, as is the correlation between family breakdown and poverty. Hence although low income is a key predictor of poor outcomes for children, children who grow up in broken homes are much more likely to live in a low income household than children in stable, two-parent families.

In addition, studies have clearly shown that poor outcomes are the result of much more than an absence of money. The recent OECD report, *Doing Better for Children*, found that despite having a higher than average family income and lower than average child poverty rate, outcomes for British children are amongst the worst out of OECD nations. The report found that the UK is the worst country for drunkenness amongst 13 and 15 year olds and has the fourth highest teenage pregnancy rate (after Mexico, Turkey and the US) and the fourth highest proportion of NEETs. Britain is spending more on children than most OECD countries for worse results.²⁰

A key distinguishing factor for the UK is its high levels of Family breakdown. OECD research shows that the UK has the fifth highest lone parent rate after Latvia, Estonia, the Czech Republic and the US²¹ and, as noted above, Britain has the highest divorce rate and teenage pregnancy rate in Europe. Children's poor outcomes are not a simple question of money, their family environment is crucial. It is the instability and disruption created by family breakdown, coupled with poor parenting, that is so damaging to their outcomes.

Poverty

Lone parent families are more than twice as likely to live in poverty than two-parent families,²² linked to the difficulty of working, especially full-time, as a single parent: lone parents are 8 times as likely to live in a workless household as couples with children and severe poverty is most often found amongst workless households.²³ A child growing up in a workless household not only has an increased chance of living in poverty, but is also lacking a working role model. A child who has not had work modelled to them as part of the life cycle is less likely to work as an adult.

However, the likelihood of low income two-parent families living in poverty is greatly increased by the 'couple penalty' in Working Tax Credits. Low earning couples lose on average £1,336 per year by living together. This in part

20 OECD, 2009, *Doing Better for Children*

21 OECD, 2009, Family Database, *SFI: Family size and household composition*

22 DWP, 2006, *Households Below Average Income Statistics 2004/05*

23 DWP, 2002, *Households Below Average Income 1994/5-2000/1*

explains why so many children living in poverty live in two-parent households in which at least one person works: Working Tax Credits do not take into account the second adult.

Equivalisation (allowing for the number of people living in a household) requires that a childless couple receive 75 per cent of the combined incomes of two single people, and a couple with two children should receive 80 per cent of the combined incomes of a lone parent and a single person. Anything less than this would make a couple household both financially and *materially* worse off than a single or lone parent household. Comparing a couple's Working Tax Credit position to that of two lone parents, the couple receive just 50 per cent of their income. Compared with a lone parent and a single person the couple receive 66 per cent of their income. In both scenarios the couple are worse off; they have a lower standard of living because of their decision to live together – a decision which would normally act as a protective factor against poverty.

Educational Failure

International research has consistently shown a strong correlation between family breakdown and poor educational outcomes: children from broken homes are significantly more likely to underachieve and to be excluded.²⁴ This is supported by the results of our YouGov polling which found that children who had not grown up in a two-parent family were 75 per cent more likely to fail at school.²⁵

Crucially, a child's educational outcomes aged 26 can be predicted aged just 22 months.²⁶ Family environment and parenting skills are fundamental in a child's early development. It is in the first few years that the brain's cognitive functions are laid and pro-social systems develop, a stable family environment is key (see below, section 3 for further discussion of this).

Substance abuse

Children living with two parents are significantly less likely to drink alcohol and take drugs than children not living with both parents – with a particularly marked difference in the early teenage years – regardless of socio-economic background.²⁷ Again, our polling confirmed this: children who do not grow up in a two-parent family are 70 per cent more likely to become a drug addict and 50 per cent more likely to have an alcohol problem.²⁸

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- 24 See for example Dawson, D.A., 1991, 'Family Structure and Children's Health and Well Being: Data from the 1988 National Health Interview Survey of Child Health', *Journal of Marriage and the Family*, Vol. 53; Sarantakos, S., 1996, 'Children in three contexts: family education and social development', *Children Australia*, Vol.21; and McLanahan, S. and Sandefur, G., 1994, *Growing Up With a Single Parent: What Hurts, What Helps*, Harvard University Press
- 25 YouGov polling commissioned by the Centre for Social Justice, 2006, *Breakdown Britain*
- 26 Feinstein, L., 2003, *Very Early Evidence: How early can we predict future educational achievement?*, CentrePiece
- 27 McVie, S. And Holmes, L., 2005, *Family Functioning and Substance Use at Ages 12 to 17*, Edinburgh Study of Youth Transitions and Crime report Number 9
- 28 YouGov polling commissioned by the Centre for Social Justice, 2006, *Breakdown Britain*

Offending

Evidence shows a direct link between family breakdown, particularly separation from a biological parent, and future offending.²⁹ Studies show that children who have experienced parental separation, particularly at an early age, are around twice as likely to be convicted of a crime than those who have not experienced family breakdown.³⁰

Childhood abuse and neglect are also key predictors of future offending and, as discussed above, maltreatment is most commonly found in lone parent or reconstituted families.³¹

Early sexualisation

Teenage sexual activity is significantly more widespread among children of divorced, broken and single parent homes, as is teenage pregnancy.³²

29 For a full discussion see Farrington, D. And Welsh, B., 2007, *Saving Children from a Life of Crime: Early Risk Factors and Effective Interventions*, Oxford University Press

30 Kolvin, I. et al, 1988, 'Social and Parenting Factors Affecting Criminal Offense Rates: Findings from the Newcastle Thousand Family Study (1947-1980)', *British Journal of Psychiatry*, 152;

31 Newson, J. and Newson, E., 1989, *The Extent of Parental Physical Punishment in the UK*; Lader, D., Singleton, N., and Meltzer, H., 2000, *Psychiatric Morbidity among Young Offenders in England and Wales*, ONS for the Department of Health

32 Social Exclusion Unit, 1999, *Teenage Pregnancy*

CHAPTER THREE

The importance of parenting and the early years

It is not simply the family structure but the nature of the parent-child relationship, particularly in the early years, which determines a child's development. Much has been written about the vital first three years of a child's life and there is, in general, cross-party support for the early intervention agenda. However, notwithstanding the rhetoric, much more needs to be done to ensure *all* children have the chance to succeed and achieve.

3.1 Setting a child's trajectory in the first three years

Neuroscience shows that an infant's brain is still developing in the first few years of their life. A child's early experiences, and in particular the family environment in which they grow up in, has a direct and long-term impact on their future life chances. Positive experiences – strong parent-child attachment, a nurturing, loving family environment – promotes the development of the pro-social systems in the brain, negative experiences – poor attachment, a chaotic, dysfunctional, abusive or neglectful family environment – hampers the development of these foundational psychological systems.³³

Infants who experience adverse post-natal environments are more likely to develop hypersensitive stress response systems, leaving them unable to cope effectively with stress, prone to anxiety, anger and depression and tending to respond to difficult situations impulsively. They are also more likely to look out for threat. The nature of their brain's development in these early years, therefore, makes them more disposed towards violence, disruptive and anti-social behaviour. They are not equipped with the regulating systems that a child growing up in an attentive, loving home has developed.

A child's family experience in their earliest years, and the nature of the parenting they receive, is a key predictor of their future outcomes. Children experiencing adverse family environments are significantly disadvantaged

33 For a full discussion and literature review see The Centre for Social Justice, 2008, *The Next Generation: A policy report from the Early Years Commission*

against those experiencing favourable environments: inequality of opportunity begins well before a child reaches school age. Government must seek to tackle such inequality through investing in effective early intervention programmes which work with the whole family.

3.2 The gap between the rhetoric and reality of government provision

The current Government has made some important, if insufficient, steps towards delivering an early intervention programme. However, it has, until very recently, failed to understand the need to see children in their vital wider context – as part of a family. The tentative steps towards recognising this truism, in the form of the *Think Family* initiatives,³⁴ are welcome, but a long way from adequate.

3.2.1 MISSING THE GOLDEN THREAD

The Every Child Matters agenda and the 2004 Children’s Act, together with the more recent 2007 Children’s Plan, have brought an important shift in the way that government views and delivers children’s policy and services, both at a national and a local level. It has enshrined multi-agency practice, including the provision of cross-service data sharing, and sharpened the focus on safeguarding and accountability.

In addition to this, the government has, rightly, developed the first attempt at a comprehensive early years programme – including Sure Start Children’s Centres, the provision of affordable childcare and the standard of those delivering it via the Early Years Foundation Stage, and an early years health strategy, the Child Health Promotion Programme: Pregnancy and the first five years of life.

All of this is laudable. However, despite legislation, considerable investment and greater national attention, delivery has not always lived up to the rhetoric.

Sure Start Children’s Centres have, in many cases, failed to engage with and therefore support the original target group of very disadvantaged families. In addition, with the push to get more people – in particular single mothers – in to work, childcare has often become the cornerstone of Children’s Centres. The vital goal of supporting parents to ensure their child’s early development, the focus on nurture and the importance of *relationships*, has slipped down the Government’s list of priorities.

Further hampering the early intervention agenda is the shortage of health visitors, resulting at least in part from the Government’s actions (including the removal of the profession from statute), and the deficiencies in early years training leading to a lack of knowledge amongst practitioners about a child’s relational and emotional needs.

³⁴ Social Exclusion Task Force, 2007, *Reaching Out: Think Family*, Cabinet Office

In addition, the focus on children rather than families has limited progress towards such goals as reducing child poverty – which is now once again on the increase³⁵ – and narrowing the achievement gap between disadvantaged children and their peers. The Government have themselves recently admitted this failing, with Ed Balls, Secretary of State for Children, Schools and Families, stating:

*Because we knew it was complicated we ended up not talking about families and talking about children instead. One of the things that we lost a little bit is that actually, while supporting children is very important, adult relationships are very important too.*³⁶

This child-focused approach has also stifled truly multi-agency action, which would require collaboration between children's and adult's services, and has, too often, led to statutory services taking on the role of parents rather than parents being supported to execute their roles well.

Furthermore, whilst some family initiatives have been implemented, the Government continues to reject the notion that family form matters. Despite the wealth of evidence, some of which is detailed above, relationship and couple support is not widely available, two-parent family formation is actually disincentivised amongst low income families due to the 'couple penalty' in Working Tax Credits and marriage remains a politically incorrect word, not recognised in government forms and statements.

35 Brewer, M. Et al, 2009, *Poverty and Inequality in the UK: 2009*, Institute for Fiscal Studies

36 Interview with Ed Balls, Secretary of State for Children, Schools and Families, Sunday Times, 27th December 2009

CHAPTER FOUR

Strengthening families, improving lives: the CSJ agenda for reform

4.1 Sending a clear message that family matters

Over the past 12 years the importance of family has been sidelined, with government focus shifting to children seemingly in isolation from their family environment. We have repeatedly heard ministers reject the notion that family form matters, and two-parent family formation in general and marriage specifically have been disadvantaged. Rather than allowing policy to be evidence-led and accepting that – whilst all families should be supported – married couple families lead to the best outcomes for children, the Government has held to their ‘neutral’ stance.

Ministers have a responsibility to act in the best interests of British society. It is not just through the policies they set, but also the narrative they communicate, that they influence people’s behaviour. Evidence shows that strong families make for strong societies and ministers, therefore, have a responsibility to articulate that.

We believe that all ministers, regardless of department, should be working to strengthen families, and that they should publicly articulate the importance of family form and structure to the outcomes for adults and children. The narrative of government is vital, and it should be one which places family at its heart.

4.1.1 GOVERNANCE AND ACCOUNTABILITY

Successive governments have found that delivering social policy across a multitude of government departments is not simple and a new approach to deliver joined-up government is required. Only by providing clear political leadership to those departments that contribute to strengthening families will real progress be made.

To do this, we believe that there should be a body with overarching responsibilities across Whitehall, solely focused on issues of social justice, to drive through the changes that are often seen as too difficult, complex and

someone else's responsibility. With leadership provided by a Secretary of State, this body would provide the system leadership and support required to deliver cross-cutting policies and to lead the development of future policy. With a clear mandate from the Prime Minister, the Secretary of State would chair a newly formed National Council for Social Justice where the implementation of joined-up thinking would be agreed and funding released for policies relating to social justice and strengthening families. All Secretary of States responsible for delivering social policy would sit on the Council, as would the Cabinet Secretary, non-executive directors and special advisors.

The National Council would be responsible to the Cabinet Committee and the Prime Minister. We believe that it is important that parliamentary accountability is held through a House of Commons Select Committee for Social Justice, due to the mechanism of funding through policy, not through the yearly spending round allocation to a government department.

A Department for Families

We believe that families are the bedrock of strong societies. In order to recognise this and truly champion and support family life, we believe that the Department for Children, Schools and Families should be divided into the Department for Families and the Department for Education.

Family prioritisation at a local level: from child-focused to family-focused

It is absolutely right that professionals understand the needs of children and act to ensure those needs are met. However, by focusing solely on the child without addressing the needs of the family, that child's outcomes are unlikely to be anything more than marginally improved.

We therefore believe that a restructuring is also needed at a local level. This would reflect the prioritisation of family at the national level by introducing the post of Director of Family Services, or similar, to sit above Children's and Adult's Services. The Director of Family Services would co-ordinate the work of Children's and Adult's Services in the areas pertaining to Family, and would oversee the commissioning of family services such as the new Family Hubs, parenting support and early years programmes. They would also work closely with the local Primary Care Trust. Some local authorities have already introduced a variation of this model, for example elevating the Director of Adult's Services to Director of Family Services but retaining the Adult portfolio. We welcome this.

4.1.2 RECOGNISING AND SUPPORTING MARRIAGE

The language used by government and the policies it implements sends important messages about values and priorities. Government should send a clear message that family and marriage matters; that strong, healthy families help create a strong, healthy society.

Reinstating marriage on government forms and in government research

By deleting the term ‘marital status’ from government forms and most government-sponsored research, the Government has sent the message that marriage is not distinct from other forms of couple relationships, and brings no additional value. This view stands in contradiction to the evidence. We believe that reinstating marital status in government literature would send a strong message that marriage matters and that government policy recognises that not all family structures are equivalent in their outcomes.

Recognising marriage in the tax system

The UK is rare among European countries in its failure to recognise family in the tax system. The vast majority of European countries, including France, Germany, Denmark and Norway, recognise the caring role undertaken by a spouse in families in which one chooses to stay at home and the other to work.³⁷ This role is highly valuable to society and a transferrable tax allowance recognises and supports this. Except for married couples in which at least one spouse was born before 1935, since the Government’s eradication of the Married Couples Allowance no such provision is available in the UK tax system.

We believe that a transferrable tax allowance should be introduced in the UK. This would send a clear signal in support of marriage as an important institution. It would also have the practical benefit of supporting and recognising those spouses playing vital, unpaid caring roles. This could be achieved in a number of ways with differing costs – all of which are a fraction of the £20-24 billion annual cost of family breakdown.³⁸ In the long-term we recommend the implementation of a transferable tax allowance for all married couples, but in the current financial climate we recommend a staggered implementation. We believe that as a priority, a transferrable tax allowance should be introduced for married couples with children aged 0-3, the formative years of a child’s life. Different scenarios could include:³⁹

- For all married couples: £3.2 billion
- For married couples with dependent children or in receipt of Carers Allowance: £1.5bn
- For married couples with children under 6: £0.9bn
- For married couples with children aged 0-3, the most important years for a child’s development: £0.6bn

A transferrable tax allowance of the full personal allowance amount would provide an additional £20 per week. We do not believe that this will *incentivise*

37 See the Centre for Social Justice, 2006, *Breakdown Britain*, Volume 1 Family Breakdown, Appendix: Supporting marriage and encouraging couples to come together

38 The Centre for Social Justice, 2006, *Breakdown Britain*, Volume 1, Fractured Families, C11

39 Costings are estimates worked out by the Institute of Fiscal Studies on behalf of the CSJ, all but the 0-3 scenario were costed in 2007 for *Breakthrough Britain*, the 0-3 scenario was costed in 2009

marriage, nor should it, but it may encourage more couples to make the transition from co-habitation to marriage and thereby increase the stability of their relationship. Although a modest sum, £20 a week could make a significant difference to low income families. Importantly it will provide the symbolic recognition of the value of marriage.

4.2 Strengthening families and delivering family well-being

If we are to strengthen families then we must invest in them. The provision of services to support couples, parents and the family as a whole are essential.

4.2.1 FAMILY HUBS

We believe that Sure Start Children's Centres should be built upon and absorbed into Family Hubs. These would serve as facilities in the heart of communities delivering joined-up, family-focused services. They would have a particular focus on early years provision, with health visitors working out of them, and an emphasis on outreach.

Family Hubs should have three key objectives. These should be met either through the direct delivery of services or through proactive referral to other local services.

1. **Strengthen families:** give families, regardless of structure, help with family relationships and parenting; focusing particularly on the social and emotional side of a child's development and the parental relationship
2. **Help prevent family breakdown by:**
 - a. Providing preventative relationship support at key points in a couple's relationship
 - b. Supporting families in difficulty by working to, where possible and appropriate, resolve conflict and find solutions to challenges
2. **Support separating families** in achieving workable parenting arrangements which are in the best interests of the children without the need to resort to the courts

We believe Family Hubs should deliver a national core specification of services. However it is important that Family Hubs are relevant to the needs of a local community and therefore the exact details of these services and how they are delivered should be left to local commissioners. Family Hubs would be commissioned by local authorities in partnership with local Primary Care Trusts.

Services should be commissioned from both statutory and non-statutory organisations, but commissioners should be proactive in engaging the third sector which is often more trusted in deprived communities.

Family Hubs should deliver, or act as a central access point for, the following core services:

- Relationship support
- Parenting support and education
- Family and couple therapy
- Individual therapeutic interventions where the aim is to strengthen families; for example therapy for post-natal depression, debt counselling, and mental health support
- Family law advice and information – with particular focus on prevention, for example the provision of mediation, as well as advice on the legal aspects of child support and child contact
- Information and services for families with disabilities
- Any particular local need, for example a teenage pregnancy or domestic violence specialist – a number of family hubs within a region may choose to share specialists

Family Hubs should be able to refer clients to specialist programmes where appropriate, for example Family Nurse Partnership or abstinence-based rehabilitation.

Mobile Family Hubs

Where appropriate, for example in rural areas, local authorities should consider the need for mobile Family Hubs. Specialised mobile Family Hubs may also be effective in providing a high quality, accessible service to families with a disabled member.

4.2.2 RELATIONSHIP SUPPORT

Strong relationships create strong families, yet whilst support for parents has become a universally acknowledged need, support for couples has been almost entirely overlooked. If we are going to improve the outcomes for adults and, in particular, children then this must be redressed: research shows that relationship programmes reduce family breakdown and improve family outcomes.⁴⁰ Studies have also shown that *couple support* can have a more pervasive and longer lasting impact on parenting skills than pure parenting courses.⁴¹

We believe that all couples should have access to relationship support. The majority of the support currently available is focused on treating problems rather than preventing them. We believe that support should be

40 Carroll, J. and Doherty, W., 2003, 'Evaluating the effectiveness of pre-marital prevention programs: A meta-analytic review of research', *Family Relations*, 52

41 Cowan, C. and Cowan, P., August 2005, 'Two central roles for couple relationships: breaking negative intergenerational patterns and enhancing children's adaptation', *Sexual and Relationship Therapy*, Vol. 20, No.3

available in order to prevent family breakdown. This should cover two key categories:

1. Preparation for couples at key moments in their relationship, for example pre-marriage and before or just after the birth of a child
2. Support to help strengthen couple relationships known to be particularly vulnerable to breakdown, for example prison, military couples and families with significant caring responsibilities (such as foster families or families with a disabled child)

The Government has floated the concept of registrars signposting couples towards marriage preparation courses, but failed to give the idea teeth by officially adopting it as government policy. We believe that on receiving a notice of marriage or civil partnership, registrars should be mandated to signpost couples towards marriage preparation services. Take up of the services should be entirely voluntary.

For pre- and post-birth support we believe that midwives, health visitors, ante-natal and post-natal clinics, and providers of parenting courses should be encouraged to signpost couples towards relationship support. Relationship education sessions should be inserted into ante-natal and post-natal classes. The Bristol Community Family Trust, a third sector organisation delivering relationship and parenting education, has developed a one hour, stand-alone session to be inserted into ante-natal and post-natal courses (Let's Stick Together) and we believe that this concept should be rolled out nationally.⁴²

Short relationship courses should be offered to prison and military couples as a matter of course, and accessed directly through the prison or military. Likewise, short courses should be offered to care families via social services.

For couples who are already struggling, greater access to therapeutic relationship support is needed, for example couple therapy and counselling. We believe that additional funding should be invested in this provision. This will require an increase in the number of professionals trained to provide couple therapy which we believe can, at least in part, be achieved through the Tavistock Centre for couple relationships.

4.2.3 ADDRESSING THE COUPLE PENALTY IN WORKING TAX CREDITS

The Government's Working Tax Credit actually undermines stable families by disincentivising two-parent family formation. As a result of the 'couple penalty' approximately 1.8 million low-earning couples are materially worse off than their single parent counterparts, losing on average £1,336 a year because they live together. Just three of the 26 OECD countries have larger couple penalties than the UK.⁴³

42 For more information on the project see www.bcft.co.uk

43 The Centre for Social Justice, 2009, *Dynamic Benefits*; authors' calculations

The couple penalty forces low-earning families to choose between a higher income to support their family and a family life in which both parents live with their children. It is crucial to recognise that family breakdown, and therefore its devastating repercussions, is disproportionately concentrated in deprived areas. Both debt and poverty are drivers of family breakdown, and family breakdown in turn acts as a driver for poverty: the couple penalty matters.

We recommend enhancing the couple element in Working Tax Credit so that all couples receive the same ratio of support to lone parents as they currently receive in Income Support – the income level of lone parent families would not be affected. This would cost £3 billion and would directly benefit low income families (increasing their weekly income by £38); increasing family stability and alleviating poverty.⁴⁴

As with a transferrable tax allowance, due to the current financial situation the eradication of the couple penalty may need to be achieved by stages.

4.3 A truly comprehensive early years programme

The first three years of a child's life are of fundamental importance in equipping them with the pro-social, emotional and relational skills needed to function effectively in society. Children growing up in dysfunctional homes are less likely to develop these skills and are therefore starting life at a significant disadvantage.

4.3.1 EXPANDING AND ENHANCING THE HEALTH VISITOR PROFESSION

All parents should have access to professional advice and guidance during pregnancy and in the post-natal and infant stages after a child's birth.

A truly universal offer

The Government has given mixed messages about the role of health visitors, suggesting both that they should be leading on public health practice and policy and that they should be focused on family services. One Department of Health report questioned their role in assessing and monitoring development and suggested a reduction in the number of routine contacts.⁴⁵

We believe that health visitors are absolutely key to supporting families and should be at the heart of a comprehensive early intervention agenda.

We believe that health visitors have two key roles:

1. The provision of early years advice and information on the physical development of the child and assessing and monitoring that development

⁴⁴ Costings are estimates worked out by the Institute of Fiscal Studies on behalf of the CSJ, for further details see the Centre for Social Justice, 2007, *Breakthrough Britain*, Volume 1 Family Breakdown, Appendix: Supporting marriage and encouraging couples to come together

2. The provision of advice on, and support for, the emotional health of the whole family, taking into account the parent-child relationships *and* the relationship between the parents themselves

Neither role can be effectively executed without direct contact with families. We recommend that all families receive a core minimum guarantee of ten home visits. This should include a peri-natal visit, a new birth visit and 8 further visits up until a child reaches the age of 3. The offer should be tailored to the needs of the individual family being supported, and therefore further support may be needed. Health visitors should be able to refer families to more intensive support where appropriate, for example to a Nurse Family Partnership programme (see below for further information on this).

Raising the profile, increasing the numbers: reversing the decline in health visitors

A universal service cannot, however, be delivered unless the retention and recruitment of health visitors is significantly improved. There is currently a shortage in health visitors, which, with 54 per cent of those in the profession aged over 50, looks set to get worse.⁴⁶ The ratio of health visitors to children varies widely, with a ratio of just 161 children under 5 for each whole time equivalent (WTE) health visitor in Doncaster PCT, to 1,143 under 5s per WTE health visitor in Redbridge PCT.⁴⁷

Valuing health visitors as a distinct, skilled profession

We believe that substantive reform is needed to reverse the decline in health visitor numbers and reinvigorate the profession. The removal of the profession from statute in the 2001 Nursing and Midwifery Order sent a message that health visitors were not valued as a specialist profession and is in part responsible for the decline in numbers. We believe that health visiting should be officially recognised as a discrete profession in its own right by introducing the words ‘Health Visitor’ in to the 2001 statute to become the Nursing, Midwifery and Health Visitor Order. This would require amendments to corresponding legislation.

This should be accompanied by establishing a Health Visiting Council within the Nursing and Midwifery Council, providing health visitors with greater ownership over their profession’s standards and how they are regulated.

We believe these changes would send a clear message that government values the specific work done by health visitors and the discrete skills required.

Opening up the profession

In addition, establishing a Health Visiting Council would allow the profession to be opened up to non-nurses. Health visitors are highly skilled professionals,

45 Department of Health, 2001, *The Health Visitor and School Nurse Development Programme: Health visitor practice development resource pack*

46 Davis, D., 2007, ‘Survey shows ongoing crisis in health visiting’, *Community Practitioner* Volume 80, Number 11

47 Family and Parenting Institute, 2007, *Health Visitors – an endangered species*

but we do not believe that they need to be nurses. The medical elements of health visitor training are, of course, vital, but this should be targeted, with health visitors learning those aspects which are most relevant to the service they will deliver – namely *early years* medical knowledge.

Contrary to popular belief, parents do not trust health visitors because of their nursing background: over three quarters of parents want help from health visitors, whilst just a third cited nurses as their preferred source of support.⁴⁸ In 2002 when the Nursing and Midwifery Council considered opening up entry into each of the three professions – nursing, midwifery and health visiting – with a direct entry route, 80 per cent of people agreed that there should be three separate registers.⁴⁹

We believe that health visiting should have its own entry route, drawing candidates with both nursing and non-nursing backgrounds, with differing lengths of training according to prior knowledge and experience. This would ensure a robust but strengthened profession and ease the pressure on a currently overburdened workforce.

Non-nurse candidates should be drawn from three categories:

1. Graduates with relevant qualifications in psychology, social work and public health
2. Sure Start workers
3. Relevant professionals, for example current psychologists, social workers and early years professionals

In addition, we believe that provisions should be made to attract former health visitors back into the profession. The re-establishment of health visiting in statute and the formation of their own professional Council will go some way in raising morale. This should be coupled with a recruitment campaign and a ‘golden hello’ for former health visitors returning to the profession within five years of leaving it. The value of the ‘golden hello’ should be similar to those that have been used in comparable professions, for example teaching. We recommend a £3,500 payment split into two, the first half being paid on entry back into the profession, the second on completion of two years full-time or three years part-time service.

An aggressive recruitment campaign should be run to attract all three groups in to health visiting – nurses, non-nurses and ex-health visitors.

Enhanced specialised training for health visitors

Health visitors need specific knowledge and skills to deliver a high quality service. Currently, candidates have to complete a three year pre-registration nursing course, followed by 45 weeks of health visitor specific training; we do not believe this is the best model for health visitor training.

48 Family and Parenting Institute, April 2009, *Health Visitors: a progress report*; based on a March 2007 YouGov poll of parents with children aged under 5

49 Nursing and Midwifery Council, 2003, *Final Report on the NMC Analysis of the Consultation on the Register, Good Health and Good Character and Entry to Pre Registration Education*

We recommend that the requirement to qualify as a nurse is removed. Specific health visitor training should be developed for both current nurses wanting to move into health visiting and candidates without nursing qualifications. These should cover both the relevant medical and theoretical information, as well as information on the social and emotional development of children, including the impact of familial relationships and the neuroscience behind it. This latter aspect is not adequately covered in current health visitor training, yet in order to fully support a family and ensure the healthy development of children it is imperative that health visitors are equipped with such knowledge.

Taking into account both the urgent need to increase health visitor numbers and the need to maintain standards, we recommend a 14 month full-time training programme for candidates with nursing qualifications and a two year course for non-nurse candidates with relevant training and experience. These courses should also be available part-time.

4.3.2 INTENSIVE SUPPORT FOR VULNERABLE FAMILIES

There should be a national roll out of programmes for vulnerable families providing intensive home-visiting during pregnancy and infancy, in order to promote and facilitate family and child health, development, resilience and mental health. The Nurse Family Partnership (NFP), developed in America by Professor David Olds, is an excellent example of such a programme. Evaluations of the NFP have clearly demonstrated both the substantial social – including large reductions in child maltreatment, behavioural problems, offending and health problems⁵⁰ – and financial benefits resulting from it.⁵¹

We welcome the introduction of the NFP – as the Family Nurse Partnership (FNP) – in Britain. However, given its thorough American evaluation and proven track record we believe that piloting is unnecessary, simply slowing the delivery of a much needed programme.

We also believe that consideration should be given to widening the criteria for families eligible for support. We appreciate the need for fidelity to a proven programme, but believe that the content and delivery could be applied to a broader range of families. The FNP works with first time mothers, usually under 20 years of age though sometimes up to 23. The programme is therefore currently only catering for a small section of vulnerable families.

4.3.3 ENHANCED TRAINING FOR EARLY YEARS PROFESSIONALS

Early years professionals and professionals who regularly come into contact with young families are best placed to provide advice and guidance on a child's early development and identify any developmental problems. Currently, however, these groups are not fully equipped to do so. Two key deficiencies exist in their training:

50 Olds, D., 1997, 'The prenatal/early infancy project: Fifteen years later' in Albee, G. W., and Gullotta, T. P., eds, *Primary Prevention Works*

51 Washington State Institute for Public Policy, September 2004, *Benefits and Costs of Prevention and Early Intervention Programs for Youth*

1. It does not take into account the importance of a child's neurological development, other aspects of mental health promotion, and the crucial role that parenting and relationships plays in both of these
2. It does not adequately equip professionals to identify infants experiencing parenting deficits or parents suffering from peri- or post-natal depression

Where problems are identified, it tends to be due to behavioural problems, with the response focused on addressing the behaviour rather than the underlying causes.

We believe that a core module covering these issues should be added to the core training of the following professions, all of whom work with parents and infants:

- Health visitors
- Day care practitioners including child minders
- Social workers in both adult and child settings
- Children and Adolescent, and Adult Mental Health Services professionals
- Sure Start workers, including managers (and future Family Hub workers)
- Relevant healthcare professionals such as nurses and midwives
- Substance misuse workers
- General Practitioners (GPs)

Where possible the training should be delivered in an inter-agency forum, rather than in professional silos. This would facilitate greater understanding between different professionals and build networks which would deliver truly integrated care. The new module should be integrated into college and university courses as a standard element of qualifying and delivered to practising professionals as part of their continuing development.

Key principles that should be covered by the module include:

- The importance of the parent-child relationship; attachment theory and the neuroscience behind it
- The promotion of emotionally healthy relationships
- The need to be 'family-centred', not just 'child-centred'
- Treat all family relationships as important, including the parental relationship and, where possible, the role of the father
- Build on the assets of individuals and communities rather than promoting dependency on professionals
- Intervening early to prevent problems becoming full-blown is key; identifying 'risk factors' and recognising that behavioural problems have drivers

A working group should be established to develop the module on behalf of the Department for Children, Schools and Family and the Department of Health,

designing the syllabus and accompanying materials. The group should consult with the professional bodies whose members will be required to undertake the training.

4.3.4 NATIONAL PROVISION OF PARENTING PROGRAMMES

Parenting skills and the parent-child relationship are of fundamental importance in determining the outcomes and well-being of children. It is therefore vital that parents understand the developmental needs of their children. It is also important that parents feel supported in their role and able to access advice and guidance when needed. The degree of support required will vary from family to family, with some parents needing intensive, therapeutic programmes and others needing a small number of sessions providing more generic advice.

We therefore believe that all parents should have access to high quality parenting support programmes. Parenting programmes should be available for parents with children aged 0-5, 6-11 and with teenagers.

We do not believe that government should be prescriptive in determining the nature and content of parenting programmes. Instead we recommend that guidelines are issued detailing key principles for delivery and content.

Neuroscience clearly shows that children have core relational needs which if unmet will hinder the development of the pro-social and emotional systems in the brain, leading to poorer life outcomes.

A child's core relational needs include:

- Secure attachment
- Physical affection and physical contact
- Interactive play and opportunities for independent play and exploration
- Encouragement and praise
- Shared adventure
- Appropriate limits and boundaries

Key principles should include:⁵²

- New parenting skills should be actively rehearsed, for example using role play and rehearsal
- Programmes should teach principles rather than techniques
- Programmes should cover both the encouragement of positive behaviour through praise and the need to set boundaries with accompanying sanctions for negative behaviour

⁵² For an excellent articulation of these principles see Sutton, C., Utting, D. and Farrington, D. (ed), 2004, *Support From the Start: Working with young children and their families to reduce the risks of crime and anti-social behaviour*, DFES

- The parental relationship has a direct impact of the development and well-being of the child
- Solution-focused techniques should be used, encouraging parents to focus on present and future opportunities rather than problems
- The parent-practitioner relationship is of fundamental importance to the success of the intervention

We believe that parenting support should be easily accessed and non-stigmatising. The principal source of parenting programmes should be Family Hubs. These should deliver programmes in each of the age categories. Parents should be able to self-refer and professionals – for example health visitors, GPs, social services and other frontline workers – should be able to signpost and refer parents. In addition, advice and details of local programmes should be available on a single central website, along with any evaluative information.

Local authorities commissioning parenting programmes for Family Hubs should use the key principles guidance as well as the evaluations of current programmes undertaken by the National Association of Parenting Practitioners. Local authorities should look at best practice programmes, include Triple P, the Incredible Years Programme and Wait, Watch Wonder – all of which have proven track records.

4.3.5 FAMILY FOSTERING

Outcomes for children in care

- Just 12% of children in care gain 5 A*-C GCSEs⁵³
- The number of female care leavers becoming teenage mothers is 4 times that of their peers⁵⁴
- A third of homeless people have been in care⁵⁵
- At least 30% of children in custody have been in care⁵⁶

Symptomatic of the general inadequacy of preventative services is the lack of provision for preventing children being taken in to local authority care. Despite the fact that up to 90 per cent of entries to care could be avoided,⁵⁷ local authorities spend just 10 per cent of their Children and Family Services budget on prevention.⁵⁸ Given the outcomes for children in care, this lack of preventative action is wholly unacceptable. We believe that much more should be being done to support vulnerable and dysfunctional families to care for their children.

53 Department for Children, Schools and Families, 2007, *Impact Assessment for White Paper on Children in Care*

54 Between the ages of 16 and 19; Department for Children, Schools and Families, 2004, *National Service Framework for Children, Young People and Maternity Services. The Mental Health and Psychological Well-being of Children and Young People*

55 Dixon, J., 2008, 'Young People Leaving Care: Health, Well-being and Outcomes', *Child and Family Social Work*, 13:2

56 Commission for Social Care Inspection, 2007, *Social Services Performance Assessment Framework Indicators, Children 2005-2006*

57 Office of National Statistics, 2009, *Statistical First Release: Children looked after in England (including adoption and care leavers) year ending 31 March 2009*, The Department for Children, Schools and Families

58 The Future of the Care population Working Group, 2007, *Beyond Care Matters: Future of the Care population*

We recommend the implementation of family fostering. These programmes would offer residential support to families with children at immediate risk of entering care for preventable reasons. Family fostering facilities would provide intensive round the clock support to address the issues behind the need to take the child/ren into care. Family fostering facilities would initially be located in local authorities with the highest rates of children entering care. Identified local authorities should model their programmes, where possible, on the third sector project Save the Family. Save the Family works with vulnerable, homeless families in their residential project in Chester, addressing their needs and equipping them with the skills to live independently as fully functional families.⁵⁹

In addition to this, an outreach model should be established in every local authority, where families with children at a significant, but less urgent risk of entering care would be offered intensive daily support.

For both residential and day programmes, families would be expected to engage for a minimum of six months, but there should be no maximum time limit. Local authorities should, where possible, commission third sector providers to deliver family fostering initiatives.

Family fostering schemes should deliver a mix of practical skills development, such as cookery, budgeting, IT and parenting classes, and social and emotional skills development. They should also be able to refer families to specialist services, for example family or individual therapists, drug and alcohol rehabilitation programmes or mental health support.

4.4 Reforming the family law system

Family law plays a key role in shaping people's expectations and understanding of family life, and should therefore be seen through the lens of strengthening and stabilising family relationships. However, despite the devastating and rising levels of family breakdown which has occurred in Britain over the past four decades, little Parliamentary attention has been paid to reforming and up-dating the family law system. Where politicians have failed to play their role in legislating for reform, judges have been forced into attempting to patch-up a weakened system, resulting in sometimes unpredictable and/or contradictory judge-made law. Urgent action is needed to return the English Family Law system to its full strength, thereby supporting families and creating a healthier society.

4.4.1 FUNDAMENTAL AND FOUNDATIONAL PRINCIPLES FOR ALL FAMILY LAW MATTERS

We believe that clear, underlying principles should underpin all family law matters and be applied by family law courts. These should articulate the vision and values upon which family law should be reformed, articulated and understood.

Key principles which should be included and adhered to, where appropriate, in all family law matters, are:

⁵⁹ For more information on the project see www.savethefamily.uk.com

- Support for marriage, married couples and the institution of marriage
- Support for family life
- Every reasonable opportunity to save saveable marriages and other domestic relationships
- Looking after the best interests of the children
- Protection of the vulnerable and potentially vulnerable
- Fairness and justice
- Access to justice for all
- Clarity, certainty and predictability of outcomes
- Simplification and accessibility of procedure
- Consistency of outcomes across the country and between similar cases
- Impact on court resources, legal aid and other direct costs
- Encouragement to private ordering
- Encouragement to out of court settlements through Alternative Dispute Resolution and other means
- Principle of 'no fiction' or artificiality in procedure, in court forms or in the law
- No bargaining chips
- Judicial continuity wherever possible
- Sanctions against disproportionate legal costs
- Greater court management
- Overcoming delays in court procedures and case management
- Taking account of international trends
- Creating a law which respects national mores and values yet also respects international families from different backgrounds

Amending and enabling Section 1 of the Family Law Act 1996

As a clear articulation in law of key principles which should be applied in all family law matters, we believe that Section 1 of the Family Law Act 1996 should be amended and enabled to make it applicable across all family law proceedings.

4.4.2 FAMILY LAW AND THE FAMILY LAW PROCESS

Compulsory pre-issue information

The importance of the provision of information pre-commencement of proceedings is universally endorsed, with recognition of this in the 1996 Family Law Act. However, there is currently a gap between the rhetoric, and good intentions, and the reality. Current initiatives have failed to deliver the level of comprehensive and effective information intended to the number of people requiring it. A number of issues have contributed to this lack of success, including the attempt to bypass lawyers – who are both the turned-to people and the experts – and the use of group settings – which are impersonal and untailored.

We believe that much better information should be given about likely direct and indirect consequences of and outcomes from proceedings, including information on out-of-court settlements and the potential legal and practical impact on children and finances. In addition, couples should be encouraged, where appropriate, to settle outside of court using Alternative Dispute Resolution methods.

We therefore recommend that before any family law proceedings can commence, with the exception of certain contexts such as domestic violence, it should be compulsory that all applicants must attend an information provision session and a certificate should be required in order for proceedings to start. We believe that new communication technologies, such as the internet and DVDs / CDs, should be harnessed to ensure the greatest accessibility and coverage. We recommend that Family Hubs are used to deliver face-to-face sessions as well as providing information for those wanting to access it voluntarily.

Greater encouragements to attempt Alternative Dispute Resolution (ADR)

ADR should be regarded as the primary method of dispute resolution, keeping family disputes out of court unless really necessary. Courts should have powers to refer cases to out of court ADR. Family arbitration should be binding to encourage its use and all couples should be informed about the suitability and benefits of ADR. In due course, in children disputes there should be a mandatory attempt at pre-court resolution via ADR. This should be available through Family Hubs.

Compulsory period of reflection and consideration

We believe that the requirement in the 1996 legislation for a three month period of reflection and consideration at the beginning of the divorce process should be reinstated. This would provide an invaluable opportunity for couples to think through both practical and emotional issues, and access services such as mediation and counselling which could lead to reconciliation in the case of saveable marriages.

The three month period would commence after the provision of a neutral written notice to indicate the intention to start a divorce. Other than cases of emergency, involving domestic violence or children, applications cannot be made during this period. After the three months the couple would be able to proceed with the divorce petition. During the three months couples should be given information about what will happen when and if they decide to proceed.

4.4.3 PROTECTION OF LEGAL AID

We believe that the availability of legal aid is fundamental to family justice: without such provision, only the wealthy will have access to justice. However, since the late 1980s we have seen a dramatic reduction in availability of legal aid and in the remuneration levels of that aid. This has resulted in a reduction in the number of lawyers financially able to undertake legal aid work.

This will be further compounded by the Government's latest proposals to further reduce the rates in legal aid work: the Family Law Bar Association has warned that the implementation of such proposals will have a devastating impact on the number of legal aid lawyers, and therefore on those most in need of help. We believe that the Government should immediately end all plans for further reductions in remuneration; there should be 'fair remuneration for work reasonably done'. Likewise, they should put an end to the erosion of eligibility for those in need of help.

In addition, we believe that payments to the Legal Services Commission from the operation of the Statutory Charge should be ring-fenced for use by the Commission, and budgets for family legal aid should be ring-fenced from other areas such as crime.

4.4.4 FAMILY LAW AND CHILDREN

All efforts should be made, where appropriate, to prevent family breakdown. The evidence on the impact of family breakdown on children is indisputable: the experience of family breakdown reduces their life chances.

However, in cases in which parental separation is unavoidable, every effort should be made to minimise the disruption to children and prioritise their welfare.

Ensuring the 'significant involvement' of both parents

When determining contact and residence arrangements it is vital that, whilst parental rights are taken into consideration, it is the interests of the child that are put first. In most cases this will mean the full engagement of both parents.

We believe that the approach to contact and residence should be principles-based but pragmatic. In order to ensure that the welfare of the child is at the heart of parenting arrangements reform to current legislation should not be overly prescriptive. Specifically, we recommend against enshrining any presumption of shared residence.

In order to bring legislation up to date with recent demographic shifts towards shared parenting, we believe that the Children Act 1989 should be amended to make it clear that the best interests of the child are invariably served by the 'significant involvement' of both parents in the child's life. This would also articulate the principle that parental responsibility carries equal status but that parenting arrangements should always be in the best interests of the child.

Recognition of the role of grandparents

Research has shown the important role played by grandparents in the lives of their grandchildren, both in the practical role they play in terms of childcare and in the relationship they have with the children. Grandparents are able to provide a crucial anchor for children during and after parental separation.

English law currently provides no automatic rights for grandparents. Instead, before making an application for contact with a grandchild, the grandparent has to obtain permission of the court. This can be a costly and time-consuming process. We believe that the requirement for grandparents (defined here as biological and adoptive grandparents) to obtain permission should be removed in the case of contact applications: the legal position of grandparents should be distinctive from that of other non-parental family members.

4.4.5 FINANCIAL PROVISION ON DIVORCE

Pre-marital and marital agreements

The debate around pre-marital agreements has intensified, at least in part due to increasingly generous financial provision on divorce, and there have been several higher court decisions in which such agreements have been identified as of significant importance. In addition, there is now increasing consensus that pre-marital agreements should be binding, as is almost always the case abroad.

We believe that pre-marital agreements can play an important role in strengthening families and supporting marriage. The provision of greater financial certainty in the case of relationship breakdown may encourage more couples to make the transition from co-habitation to marriage, particularly in the case of people who have experienced painful divorces. In addition they are in line with our general belief that couples should receive information pre-marriage.

We therefore believe that pre-marital agreements should be available to those who wish to enter into one, and that such agreements should be legally binding. A 1998 Government paper identified certain preconditions to a pre-marital agreement and we endorse those principles which are not outdated:

- Enforceable under the general law of contract
- Both should have received independent legal advice before entering into it
- Both should have provided financial and all other relevant disclosure before entering into it
- There must be no mistake, misrepresentation or duress
- There must be a minimum period before the wedding as the initial evidence of lack of duress in the case of pre-marriage agreements; we believe this should be at least 28 days

In order to ensure justice and fairness in changed or exceptional circumstances we believe that courts should have some discretion to intervene. We concur with the Government's 1998 position on discretion, namely that an agreement may be opened up when there is 'significant injustice'.

The provisions in relation to pre-marriage agreements should be available to all marital agreements, civil partnership agreements and separation agreements (and co-habitation agreements).

Financial provision on divorce

The current law on financial provision on divorce bears little resemblance to the statutory Parliament-made law. This is the result of judge-made decisions in individual cases. One of the greatest advantages of the English law system is this discretionary element, however this has led to combined higher court guidance which has at times been unclear and inconsistent. Divorcing couples and their advisers and mediators face significant uncertainty of outcome should the case go to court: greater certainty about outcomes would likely lead to more cases being settled out of court and with fewer costs.

Discretion to ensure fair and just outcomes is crucial, but unfettered discretion is no longer acceptable, exacerbating the distress of relationship breakdown and increasing the time and cost of reaching a settlement. This is particularly damaging when children are involved: the longer a financial dispute the longer it takes for the parenting arrangements to settle into a workable pattern.

Greater certainty and predictability is needed (a) to create a more effective system and (b) to recognise that the way the law treats financial provision on marital breakdown has a fundamental impact on the way people view and treat marriage.

We therefore believe that web-based calculations of likely financial outcomes on divorce, similar to the tables used as guidance for families after the Budget to ascertain its impact, should be made available. Although these tables would be purely illustrative and, as with the post-Budget tables, many families would not fit neatly into the tables, we believe the public would welcome the opportunity to use such guides.

We believe that the English law principle of recognising and allowing compensation for marital commitment and sacrifice is of fundamental importance, including recognition of post-divorce caring responsibilities in the case of children. This is key to the institution of marriage, and without it not only would the notion of *mutual* responsibility in the specialisation of roles be undermined, but it could deter couples from specialising in their roles in the first place.

All assets of a couple on divorce should be categorised into marital and non-marital assets and divided differently: marital assets should be divided equally and non-marital assets should stay with the relevant spouse, with both categories subject to overriding calls on those assets. Courts should have the power to use discretion in the case of significant injustice. Overriding calls would include:

1. Provision of accommodation and other capital needs for the children with each parent during their minority
2. To provide for any prejudice arising to one spouse because of commitments to or sacrifices for the relationship, the other spouse or child-raising
3. To provide for reasonable needs (more narrowly construed than in present law)

4.4.6 INTERNATIONAL FAMILIES

The removal of Brussels II

We believe that the principle of first to issue proceedings in European family law which encourages international couples to rush to divorce should be removed at the very earliest opportunity. It runs contrary to the principles outlined earlier; it is anti-family.

In addition, we believe that attempts by Brussels to impose applicable law on the UK should be vehemently opposed. The country with the closest connection to an international couple should be able to deal with a couple's case and apply its local law. In English and Welsh Courts family proceedings should be dealt with under English law.

CHAPTER FIVE

A fairer, stronger, more successful Britain: conclusion

Mr Justice Coleridge excellently expressed the importance of family to society when he said:

For as long as history has recorded these things, stable family life has been co-extensive and co-terminus with a stable and balanced society. Families are the cells which make up the body of society. If the cells are reasonably healthy, the body can function reasonably well and properly.⁶⁰

The scale of family breakdown in Britain today is devastating; at a human, societal and financial level. It is no coincidence that the highest levels of family breakdown are found in our most deprived communities, and that those areas also suffer the highest levels of addiction, worklessness, crime and educational failure. Our family experiences profoundly impact our life outcomes and a negative family experience is a key predictor of these other expressions of social breakdown. If disadvantaged children are to change their course, and break the intergenerational cycle of poverty and social exclusion that they have been born into, then we must invest in supporting and strengthening the institution of family.

That we have failed to stem the last four decades' rising tide of family breakdown is shameful. We owe it to the next and future generations to act now; for their welfare and well-being and for that of the society they will live in.

60 Speech by Mr Justice Coleridge to Resolution National Conference, April 2008

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