

CONSENSUS

Family Law Reform

57 Cornwall Grove Bletchley Milton Keynes MK3 7HX Tel 01908 630856

Mismanagement: Social and Family Policy

**Mr Bruce Clark, DfES
2000-2005**

26 April 2005

Sir David Normington
The Permanent Secretary (DfES)
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

26 April 2005

Dear Sir David,

**Mr Bruce Clark: Major Distortions of Family Policy
Mr Clark's Integrity?**

Please find attached two complaints raised against Mr Bruce Clark in respect of two areas of family policy. The mismanagement of these areas has common features:

- (i) incompetence
- (ii) underhand and/or improper dealings
- (iii) adverse consequences
- (iv) distortions of policy

Item (ii) is of particular concern.

The two mismanaged policy areas are on the verge of conflation. The areas of untoward operation now extend over the Departments of Health, Education and Skills, and Constitutional Affairs; the latter is partially disabled with regard to Section 8 of the Act. An incidental if recent casualty is a three-ministry Green Paper, *Parental Separation* (Cm 6273).

Public law cases involving children, and private law cases involving children, are now embroiled in a spectrum of mismanagement entailing widespread social harm. You will be familiar with some of the reported damage through a general reading of the newspapers:

- (i) miscarriages of justice involving Munchausen's by Proxy or "FII"
- (ii) civil disorder in relation to contact cases

Both flow from Mr Clark. His continuance in a position of responsibility is questioned.

Yours sincerely,

David Mortimer
Secretary

cc Rt Hon Ruth Kelly; Rt Hon Margaret Hodge; Lord Filkin; Lord Falconer; Baroness Ashton; Tom Jeffery;
Althea Efunshile

SECTION ONE

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1. Mismanagement: Separating Parents

The Covert Discarding of an Agreed and Approved Reform

2. Mismanagement: MSBP

Misconstruing Ordinary Childhood Disorders as Evidence of Abuse

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- **Separating Parents**
- **MSBP**

Sir David Normington
The Permanent Secretary (DfES)
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

26 April 2005

Dear Sir David

Bruce Clark: Major Distortions of Family Policy (Contact)

I write at the suggestion of DfES officials on behalf of the signatories listed in the Exhibits. Consensus (FLR) is concerned that Mr Clark, of the Vulnerable Children Section, has taken national policy into his own hands and misled the public, MPs, Ministers and the judiciary.

Our concern flows from how Mr Clark handled the NATC Early Interventions project.

The EI project was assigned to Mr Clark for implementation around January '04 after it had been approved by the Minister. However, Mr Clarke had already decided to swap the fully-designed EI project for a different entity without telling Ministers. Since then, to conceal what he did, Mr Clark has persistently issued false claims that only a change of name was involved, and that the two projects - which are in reality opposites - embody the same principles. The attached evidence confirms that Ministers and others were misled.

The Design Team assembled by Mr Clark first met on 17th March 2004. Its members were not briefed on the Early Interventions project or even given the EI papers to read. The EI project originators were not consulted. Mr Clark's Design Team started again from scratch. In the words of the Steering Group Chair, Althea Efunshile, on 25 May 2004: "The pilot has no in-built assumption in favour of an already existing model." The upshot is:

- the project built and launched is the reverse of the project submitted
- family policy is in serious mutation
- his substitute ('Family Resolutions') lurches from one blunder to the next
- work on the approved Early Interventions project never began
- the Green Paper, based on the discarded EI project, is empty

Meanwhile, and as forewarned, Fam Res has failed. It is on this basis that we question the competence, expertise and good will of Mr Clark. Perhaps we can meet to discuss the issue?

Yours sincerely

David Mortimer
Secretary

EXHIBITS

Deformation of Family Policy Mr Bruce Clark 2003-2005

Summary: Misinformation

The Exhibits show the DfES taking four contradictory positions:

- (i) EI is being built
- (ii) Fam Res is being built
- (iii) Fam Res is the same as EI
- (iv) Fam Res is different from EI

Explanation

The truth is that Mr Bruce Clark decided to discard the EI project without review or consideration, replace it with an entirely different proposition, and do so without telling Ministers.

However, since the intended project was EI (and not Fam Res) Mr Clark had to maintain - from beginning to end - that the two projects were the same. Otherwise Ministers would have discovered that the project they were getting was not the project they ordered; and that the Green Paper promises were incapable of fulfilment.

The end-result of the chicanery is, understandably, the long-predicted fiasco. On 3 April 2005 the *Sunday Telegraph* reported of Mr Clark's Fam Res substitute: "The scheme, which cost an estimated pounds 1 million to set up, now appears close to collapse".

In discarding EI, Mr Clark discarded some ten years' of prime development work, winding the clock back to inoperable pieties drawn from the early 1990s. In so doing, Mr Clark replaced a fully-functioning legal mechanism with a vague travesty of a couple of its subsidiary and disembodied components.

As Mr Clark still has not familiarised himself with the EI project he destroyed, he still seems to be unaware of what he has done.

EXHIBITS: CONTENTS

CHRONOLOGY: The Substitution

- | | |
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| 2. Email, DCA/DfES 11.12.03 | <i>The EI project is being taken forward</i> |
| 3. Emails, DCA/DfES Jan'04 | <i>The EI project is not being taken forward</i> |
| 4. Letter, NATC – DfES 12.4.04 | <i>The EI project never started</i> |
| 5. Letter, NATC – DfES 19.4.04 | <i>The EI papers were lost before being read</i> |
| 6. Letter, Minister to CEP , 29.4.04 | <i>The Minister believes EI is being taken forward</i> |
| 7. Project Management , April 04 | <i>The EI project could still be taken forward</i> |
| 8. Letter, DfES 25.5.04 | <i>The EI project is not being taken forward</i> |
| 9. Letter, NATC to Bruce Clark , 17.6.04 | <i>The EI project is not being taken forward</i> |
| 7. Letter, NATC to Lord Filkin 12.10.04 | <i>The EI project is being taken forward?</i> |
| 8. Family Law , November 2004 | <i>The EI project is not being taken forward</i> |
| 9. Email to Bruce Clark | <i>The EI project is being taken forward</i> |
| 10. Minister to the House , 13.12.04 | <i>The EI project is being taken forward</i> |
| 11. DfES, Next Steps , Jan 2005 | <i>The EI project is being taken forward</i> |
| 12. The Guardian , 19.1.05 | <i>The EI project is not being taken forward</i> |
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Appendices:

Genesis of this Complaint
Signatories' Protocol
Signatories

These Exhibits are attached to the 26 April 2005 Consensus letter to Sir David Normington.

Lisa Blakemore-Brown
Psychologist
B.Sc.MSc.C.Psychol.A.F.B.Ps.S



Sir David Normington
The Permanent Secretary (DfES)
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

BY HAND
26 April 2005

Dear Sir David,

Bruce Clark: Major Distortions of Family Policy (Munchausens / 'FII')

Please find enclosed an account of my dealings with the Department and Mr Bruce Clark in relation to the Munchausen's by Proxy cases.

A wide range of social and family policy issues are clustered around this designation, also known as 'FII'. Tainted areas include child protection, 'shaken babies', cot deaths, the nature of medical evidence, and the role of Social Services and the Courts in relation to families. Increasingly this is also impacting on the Educational system.

You will see from the ensuing pages that policy has come off the rails.

Five years ago a Working Party was set up with a remit to investigate if a supposed medical condition (MSBP) had substantive existence. Mr Clark fudged this aim into the construction of deleterious social machinery based upon an extremist assumption the condition did exist.

You would be correct in thinking that this submission is prompted by the Consensus (FLR) papers. There are strong parallels. Here, as there, the process of neutral discourse was replaced by the imposition of a personal agenda contrary to informed professional opinion.

This letter is written in the knowledge that a substantial body of orthodox professionals share my views. A chance to raise the concerns Mr Clark elected not to consider will be welcome.

Yours sincerely,

Email: ltapestry@aol.com
Mobile: 07946 061894

SECTION TWO

Supporting Evidence

- **Separating Parents** Pages 9-38
- **MSBP** Pages 40-46

CHRONOLOGY: The SUBSTITUTION

The NATC Early Interventions project

Project Timeline

1996-2002 The Early Interventions project secures professional approval.

The EI project first registered in the institutional arena as the guidelines of the Association of Court Welfare Officers produced in January 1997. Five years of consensus-building led to the 27 March 2002 Royal Society Conference (Chair: Dame Margaret Booth, former High Court judge). Approving EI for development as a pilot, she affirmed: 'In this matter we are years behind. I profoundly believe that the time has come to remove our blinkers' (27 May 02).

1. Approvals of the NATC EI Project April 03 to March 04

- 10 April 03: High Court judiciary express formal support for the NATC EI project
- 15 July 03: detailed proposals endorsed by senior multi-disciplinary professionals
- 8 Oct 03: NATC EI project formally submitted to DCA
- 21 Oct 03: Lord Filkin, DCA Minister, embraces EI on *Newsnight*
- 23 Oct 03: Rt Hon Margaret Hodge embraces EI in the House (Hansard)
- Jan 04: SFLA Chair expresses supports for EI (*SFLA Review 104*)
- 28 Jan 04: President of Family Division expresses support for EI (04 EWCA Civ 18)
- 9 Feb 04: Lord Filkin passes the approved EI project to DfES for implementation
- 9 March 04: Family Law Bar Association expresses formal support for EI
- 23 March 04: Coalition for Equal Parenting expresses formal support for EI

2. Destruction of the NATC EI Project Oct 2003 to March 2004

Departmental officials, to whom the EI file was passed, decided by January 2004 to:

- replace EI with a different project (Fam Res)
- set up a Design Team to build Fam Res
- claim that work continued on the approved EI project

By the time the DfES Design Team first met on 17 March 04 the EI project was dead. Work never started. The Fam Res substitute was an idea-to-think-of-an-idea.

Seven of the 8 members on the narrow DfES Design Team knew nothing of EI. The EI project originators were excluded. The EI papers were not distributed; the EI papers were not read; the EI papers were mislaid. The Design Team was not briefed on EI. Objections were countered by assurances, relayed to Ministers, that Fam Res was and would be the same as EI. This fiction was maintained after the opposite project has been launched.¹

3. Consequences of the Substitution

- i. A non-functional project (Fam Res) was produced instead of EI
- ii. Ministers, MPs, press and public were misled
- iii. The Green Paper, *Parental Separation*, is based on the defunct EI project
- iv. The intended and approved EI reform lies fallow *NATC 15.3.05*

¹ Fam Res was the name of an old project supported by CAF/CASS; at the time of the substitution (Oct 03 – Feb 04) the DfES may not have appreciated that Fam Res did not have an actual design. Hence the DfES Design Team swapped a finished project (EI) for a design which did not exist. As the EI project was discarded without review or discussion, the DfES Team was never in a position to know if Fam Res resembled EI. It seems that the lead DfES official never read the EI papers.

The EI project should be taken forward (professional / judicial / political support)

"Looking back at the Conference², perhaps the most striking point is how much we have to learn from other countries and their pre-hearing Information and Mediation approach, and from their consensus - sometimes their statutory definition - of the quantum of contact. It is a shame that our country does not easily learn from what other jurisdictions have done successfully for so long. In this matter, we are years behind. I believe profoundly that the time has come to remove our blinkers...

The conference raised many questions. How do we take the new approach forward with real commitment? If there are to be Pilot Projects, what should they pilot? And how are they to be evaluated? The jurisdictions represented at the conference were fine-tuned to their own purposes; they differ from culture to culture. Our government rightly requires that any changes that may be made must not only work but must also be cost-effective. All this opens up a wide range for discussion..."

***Dame Margaret Booth, Hardwicke Building, Lincoln's Inn, 27 May 2002
Speaking at the reception to mark the Conference Report's publication***

“CONTACT DISPUTE RESOLUTION

A seminar, *Early Interventions – Towards a Pilot Project*, held in London in April 2003, examined ways of streamlining s 8 contact applications. Chairperson Bracewell J... said it was time to consider ‘a different approach’ that might enable the courts to allocate time better by concentrating on those cases where judicial intervention was indispensable...

The keynote from Her Ladyship – that many long-running disputes might never get under way if there were proficient early interventions – was amplified by guest speaker Judge John Lenderman, a senior family law circuit judge from Florida...

A seminar panel consisting of three UK experts considered if the key components of an early-interventions system could be assembled in England and Wales. Their collective answer, in the affirmative, prompted Bracewell J's closing endorsement of a pilot project to establish ‘first, if we can get better results; and second, if we can provide quicker timetabling’...

During the ensuing plenary discussion, a proposal for a 1-year pilot project attracted support from those present. The creation of a steering committee, to translate informed interest into active planning, was mooted as the logical next step...

As for the steering committee, the need was not so much for an open-ended inquiry into what to do, but rather the more proactive task of ensuring that an early-interventions trial – where court education and mediation worked together – actually occurred. Final responsibility lay with the courts.”

2003 Fam Law 455

“It would be incomprehensible if the Pilot Project did not receive official sanction from the DfES and the Department for Constitutional Affairs. The Pilot does not involve a huge investment; it would achieve savings in money and court time; it should produce much better outcomes for parents and children.”

***The Honourable Mrs Justice Bracewell DBE
15 July 2003, Hardwicke Building, Lincoln's Inn***

“My hon. Friend the Member for Stafford talked about the early intervention schemes in Florida and referred us to the article by Mrs. Justice Bracewell in The Guardian yesterday, which I managed to read during the debate. I have looked at the scheme; it is extremely interesting and we are considering whether we can take it forward with Mrs. Justice Bracewell. As with all such things, it would cost money, even on a pilot basis. We have to see whether we can identify the appropriate resources.”

Margaret Hodge, 23 Oct 2003: Hansard, Column 332WH

² Early Interventions: A Framework for Contact, ppd NATC

The EI project is being taken forward

Email: DfES/DCA

-----Original Message-----

From: Davis, Warren [mailto:Warren.Davis@DCA.GSI.GOV.UK]

Sent: 11 December 2003 15:24

To: Duncan

Subject: RE: Early Interventions Pilot Project

Duncan

Thanks for your e-mail and the background on the Parenting Fund.

We are currently at the stage of identifying members of a small steering group to meet and begin to identify some of the issues. Following from that meeting, we will draw up a project plan and identifying what resources will be required. At this stage, it would be useful for us to meet again and discuss our proposal.

I will be in contact with you early in the new year, once we have something more concrete to discuss.

Regards

Warren

Tel: 020 7210 8601

E-Mail: warren.davis@dca.gsi.gov.uk

The EI project is not being taken forward

Email: DfES/DCA

----- Original Message -----

From: "Davis, Warren" <Warren.Davis@DCA.GSI.GOV.UK>
To: "'oliver CYRIAX'" <mail@cyriax.freemove.co.uk>
Cc: <althea.efunshile@dfes.gsi.gov.uk>; <bruce.clark@dfes.gsi.gov.uk>;
<julie1.hull@dfes.gsi.gov.uk>; "Kirby, Brian" <Brian.Kirby@CAFCASS.GOV.UK>
Sent: Friday, January 30, 2004 6:30 PM
Subject: RE: Follow-up to our meeting on Monday 19 January 2004

Oliver,

I said that I would get back to you following our meeting on 19 January.

As I explained, a small steering group has been established to oversee the work of the project. Althea Efunshile, Director of the Safeguarding Children & Supporting Families Group at the Department for Education and Skills will lead the group. The Honourable Mrs Justice Bracewell, Jonathan Tross, Chief Executive of CAFCASS and Amanda Finlay, Director of the Public and Private Rights Directorate at the Department for Constitutional Affairs are also members of the steering group. Following their meeting I can confirm the following:-

- * It is intended that the pilot (to be call the Family Resolution Project) will proceed along lines agreed by the steering group
- * A DfES official will be appointed project manager
- * If you would like to provide any advice or offer your services in a specific capacity, please contact Althea Efunshile, chair of the steering group

I will be glad to supply you with full address details for Althea Efunshile if you would like to write to her.

Please telephone or e-mail me if you have any further questions or would like to discuss any aspect further.

Regards

Warren Davis
Families in Change Team
Vulnerable Children Division
Safeguarding Children and Supporting Families Group
Children, Young People & Families Directorate
Department for Education & Skills Tel: 020 7210 8601

The EI project is not being taken forward

Email: NATC to DfES/DCA

E-Mail: warren.davis@dca.gsi.gov.uk

----- Original Message -----

From: [oliver CYRIAX](mailto:oliver.CYRIAX)

To: [Davis, Warren](mailto:Davis.Warren)

Cc: althea.efunshile@dfes.gsi.gov.uk ; bruce.clark@dfes.gsi.gov.uk ; julie1.hull@dfes.gsi.gov.uk ; Brian.Kirby@CAFCASS.GOV.UK **Sent:** Tuesday, February 03, 2004 1:26 PM

Subject: Follow-up to our meeting on Monday 19 January 2004

Re your email 30 January³:

Dear Warren:

Thanks for sending me information about the Family Resolution Project.

Here is a report on progress with the Early Interventions Pilot:

1. At the next meeting with the Minister, the Early Interventions Pilot will be presented as a project 'ready-to-go':

(i) In the last couple of months we have developed a management structure for the pilot.

(ii) features include:

- local / independent management
- judicial-leadership
- full professional input
- full professional consensus
- approved design as to (i) outline (ii) detail
- rapid implementation

(iii) we have secured strong professional support across-the-board, in particular from (a) the child development experts / expert witnesses (b) the FLBA (c) the SFLA (d) mediators (e) parent education experts.

(iv) You will of course have seen the January's 2004 SFLA Review carrying the news to the profession and the President's endorsement in Re S last week.

(v) Indications are that we will have support from parenting groups and the broadsheet press.

I look forward to updating you and of course the Minister on 9 February.

Best Regards,

Oliver Cyriax

³ Consensus (FLR) footnote: *by this stage, Mr Clark had already decided to swap one project for another (Mr Warren Davis was his junior). Since the Minister, Lord Filkin, was still working unawares to set up the original EI project, Mr Clark's natural course was to pretend to the Minister that the two projects (Fam Res and EI) were the same. This is what happened, leaving Mr Clark to tell different stories to different people depending on what he was trying to justify.*

Althea Efunshile
Safeguarding Children & Supporting Families
Department for Education and Skills
Caxton House
Tothill Street SW1H 9NA

The EI project never started

12 April 2004

Dear Althea Efunshile

Early Interventions: Successful Implementation

Many thanks for your letter of 6 April 2004 initiating communication with the NATC. It would indeed be helpful to meet.

Your officials were presumably kind enough to pass on the information that I have been engaged full-time on assemblage of the EI project for six years.

A fair amount of ground was made good during this period.

The DfES can now bring the project to ready fruition; if the pilot is actioned in accordance with the Implementation Plan of 9.2.04, the project as approved could be running at Wells Street within about six months. In this context:

- (i) the DfES has a wonderful opportunity to deliver a unique consensus
- (ii) an historic achievement is within the Department's grasp

I trust we can take advantage of the opportunity. I shall phone for an appointment.

Yours sincerely,

Oliver Cyriax

Althea Efunshile
Safeguarding Children & Supporting Families
Department for Education and Skills
Caxton House
Tothill Street SW1H 9NA

19 April 2004

The EI project papers were lost before being read

Dear Althea,

EARLY INTERVENTIONS: A Chance for Successful Implementation

Further to our conversation of 15 April, I re-enclose the primary EI documents:

Item 1: Early Interventions: Towards a Pilot Project - 10 April 2003

Item 2: Early Interventions: Implementation Plan - 9 February 2004

I'm sorry these foundation papers did not reach your desk before. It's lucky we got in touch, the project must have looked woolly without its blueprint. For the record:

Item 1: The project as approved by the High Court

Item 2: How this project, as approved, can be made to happen

Maybe you'll look the papers over. Perhaps your Team might see them?

I look forward to meeting on 29 April. It's a wonderful chance to move forward.

Yours sincerely,

Oliver Cyriax

The Minister believes the EI project is being taken forward:

Electronic Copy: Minister to the Coalition for Equal Parenting

At 12:14 PM 06/05/2004, Anne Harris wrote:

Dear All,

Below is the reply from Lord Filkin, Dept of Constitutional Affairs, in response to the Coalition of Equal Parenting's letter sent by Stephen Fitzgerald who is the CEP's Chairperson.

Best Wishes,
Anne Harris, SNAP/MANKIND.
(National Co-ordinator - Coalition for Equal Parenting).

Letter dated 29 April 2004.

Dear Stephen,

Early Interventions: Pilot Project.

Thank you for your letter of 30 March 2004, regarding our meeting of 27 January. I felt that this was a valuable discussion of the Family Resolution Pilots (previously called the Early Intervention Pilots) and of contact issues.

The Early Interventions project which was developed by New Approaches to Contact (NATC) and others, is being developed and taken forward. It has been renamed the Family Resolution Project because whilst the intended intervention is early in the current court process, it is not early in the process of relationship breakdown.

The project is being taken forward with the Department of Education and Skills (DfES) as the lead department and the involvement of key stakeholders. For example, District Judge Crichton, who helped in the early intervention work, is a member of the Project Design Group. If the Coalition wishes to provide further input to the project we would be happy for you to do so.

As you might be aware the Department for Constitutional Affairs (DCA) is undertaking wide-ranging work examining relationship breakdown. We are focused on improving consumer experience and outcomes where there has been family breakdown and there is a need for contact dispute resolution. As part of this work we plan to publish a consultation paper before parliamentary summer recess.

I hope that this is both helpful and reassuring, please do not hesitate to write to me if you have any further queries.

Yours ever,

GEOFFREY FILKIN.

The EI project could still be taken forward:

Early Interventions: A Change of Approach?

Solution: If the EI project is to proceed, a new “Implementation Team” knowledgeable in the NATC / EI project should be appointed

Problem: objectives have been reversed; it is now hoped to **start** the EI project⁴ - via the old management team geared to achieve the reverse

A Need to Change Management?

- The original DfES Management Structure, well-suited to a previous objective of **stopping** the NATC project, is now less than ideal ⁵.
- The initial objective, as of October 03, was to **stop** the NATC project; and **start** in its place a DfES/CAFCASS venture (‘Family Resolutions’) ⁶.
- Those who do not know about EI are now less-needed for EI design.

Approach to the NATC / EI project: Oct 03-April 04

- all core NATC Early Interventions documentation mislaid
- no NATC Early Interventions documentation read
- no contact with the NATC or those who have worked the NATC
- no contact with those familiar with the EI project ⁷

Consequences of the DfES Approach: Oct 03-May 04

- core point of EI overlooked - until the first DfES / NATC conversation (29.4.04)
- no means of implementation - re a project submitted ready-for-preproduction

4.5.04

⁴ In March 03 the DfES adopted the *form* of the original NATC pilot project; the DfES is now poised to adopt the EI project’s *content*. Hence the departmental objective is now implementation of the NATC / EI project - discarded in October 03 in favour of a CAFCASS interposition which turned out to lack substantive existence.

⁵ Individuals were appointed to the DfES Design Team with a lack of familiarity with EI.

⁶ In or around October 03, CAFCASS interposed their “Family Resolutions” project in place of the NATC / EI project. The two projects, presented as twins, were opposites. The Minister was unaware of the switch - as part and parcel of which, the form and the content of EI were dropped. To maintain a semblance of continuity, dialogue was declined with those familiar with EI. The CAFCASS project has now dissipated into preliminary explorations; activity on EI is confined to sporadic meetings by a group unaware of the EI’s rudiments.

⁷ The exception is DJ Crichton as one of a nine-person Design Team, eight of whom are not versed in EI.

The EI project is not being taken forward:

department for

education and skills

creating opportunity, releasing potential, achieving excellence

Caxton House
6-12 Tothill Street
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Direct line: 020 7273 4825

Mr Oliver Cyriax
New Approaches to Contact

25 May 2004

Dear Oliver,

The Family Resolutions Pilot Project

Thank you for your letters of 5 May to Bruce Clark and to me, following our meeting on 29 April. I found our discussions very helpful and I think it might be useful if I give some more detail here about the context of the Family Resolutions Pilot and its aims. Some of what I say will inevitably cover aspects of what we discussed and areas outlined in my letter of 6 April.

Both Margaret Hodge and Lord Filkin are committed to taking forward the Family Resolutions Pilot Project. This commitment is in the context of the Government's response to the recommendations set out in the Children Act Sub-Committee's Report "Making Contact Work". The Project aims to help separating or separated parents reach agreement about contact and residence for their children, without needing formal family court proceedings. The pilot phase will test the effectiveness of a range of measures including information and advice and parental co-operation sessions. Since our meeting, Bruce Clarke has again spoken to Lord Filkin and the minister has reconfirmed his support for the Family Resolutions Pilot Project.

In designing and implementing the project, ministers fully understand the importance of drawing on the experience and lessons learned from other jurisdictions. Undoubtedly a great deal of good work has been done in the UK and elsewhere in this area and it is very important we do not work in isolation. In particular, the Project is drawing on the recommendations of the ad hoc group chaired by District Justice Nicholas Crichton.

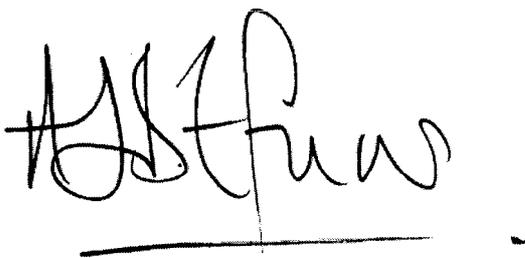
The project will promote good quality contact while, through screening and risk assessment, it will safeguard children from the risks of domestic violence, abuse and the adverse effects of their parents' conflict. The pilot will provide well presented relevant information and skills guidance in planning for co-operative parenting, as well as further support in reaching agreement.

However I am sure you can understand if I take this opportunity to underline that the pilot and subsequent national rollout will be operating in the context of the current statute law, as interpreted by case law judgments. In practice, this means relying on the current assumption of contact that has been established through case law, rather than developing new presumptions in the statute law. Therefore, the pilot will be based on the current principle, as set out in the Children Act 1989, that the child's welfare will be the paramount consideration. In this context, it is the quality of contact between a child and his/her non-resident parent rather than the simple quantum of contact that is the more important issue. Further, it is a key aim of the project to encourage parents to step back from the adult conflict and focus exclusively on the needs of their children. Therefore, the project cannot advocate a structured programme along the lines proposed by "New Approaches to Contact", in terms of specifying, from the outset, the quantity of contact. This focus on quality ahead of quantity will feature in the planning session(s), where both parents will be expected to work together to draw up their own plan for co-operative parenting. These plans will, of course, need to be flexible across time, as parents will need to adapt and develop them to reflect changing circumstances, such as their children growing older and becoming more independent.

I realise that discussions during the past year have frequently referred to "Early Interventions" and the "Florida model". This in part came about through the significant interest about what happens in Florida and our references to the recommendations of the ad hoc group chaired by District Judge Nicholas Crichton. However the title "Family Resolutions Pilot Project" was chosen to emphasise the key principle of parents continuing to work together in the best interest of their children, even if the adult relationship had broken down. Also, changing the title from "Early Interventions" acknowledges that although the intervention may take place early in terms of Court-based intervention, it is probably not at all early for the families.

As I mentioned above, we are very conscious of the value to be gained from looking at what other jurisdictions have done and this includes Australia, Canada, New Zealand, EU countries, the "Florida" model and the US generally. The pilot will include an independent review of court based interventions in other jurisdictions, with a clear account of the evaluation and monitoring undertaken. The pilot has no in-built assumption in favour of an already existing model.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Althea Efunshile', written over a horizontal line.

Althea Efunshile
Director, Safeguarding Children Group

Althea Efunshile and Bruce Clark
Safeguarding Children & Supporting Families
Department for Education and Skills
Caxton House
Tothill Street SW1H 9NA

REGISTERED DELIVERY

17 June 2004

The EI project is not being taken forward:

Dear Althea and Bruce,

EARLY INTERVENTIONS: Replacing an Agreed Project with its Opposite

I refer to my letters of 12 April, 19 April, 5 May, 14 May and 3 June 2004 to which a substantive reply is awaited. Might I summarise the position?

There are widespread concerns, within the professions, public and media, that you have replaced a professionally approved-and-designed project with its opposite.

That is, on 8 October 2003 the DCA received a detailed proposal for the NATC Early Interventions Pilot Project - which has the written support of the DCA Minister, the President of the Family Division, the High Court Judiciary, the Family Law Bar Association, the 03/04 Chair of the SFLA and the Coalition for Equal Parenting; and strong support from leading child development psychiatrists.

Instead of implementing this finished project, you took it as an invitation to start on design afresh with "no in-built assumption in favour of an already existing model". This backwards step, dismantling nine years' development work, has to date yielded no more than a DfES concept which is not viable on first principles. I quote the record:

"DfES Project Management 8 October 2003 to 11 May 2004

- *project delivered to DfES in turnkey condition*
- *core papers mislaid*
- *core papers unread*
- *key feature overlooked*
- *project replaced by its opposite*
- *key appointments made on lack of project familiarity*
- *project originators excluded*
- *project divested of almost all relevant expertise"*

NATC / DfES 14.5.04

May I have your comments?

Yours sincerely,

Oliver Cyriax

Lord Filkin
DfES
Sanctuary Building
Great Smith Street
London SW1P 3BT

12 October 2004
By email and hard copy

The EI project is being taken forward:

Dear Lord Filkin,

CONTACT: installing workable reform by early 2005

Thank you for seeing me on 5 October. To summarise our meeting:

- The project launched by the DfES in September '04 (FamRes) reverses the judicially-agreed EI project submitted fully-designed in October '03.
- Whitehall has built the wrong project.

This outcome is the result of a decision by individual civil servants to (a) discard the agreed EI project without telling you (b) start again from scratch (c) exclude all input from the multi-disciplinary professionals familiar with EI.

The FamRes pilot, which reiterates the status quo, will inflame civil unrest. Hence:

- Agreed:** the priority is to produce EI
- Disagreed:** asking civil servants to turn FamRes back into EI may not work
- Danger:** high political risk

The alternative, which will work, is to invite informed professionals to produce EI.

That way, FamRes can be left intact. Fam Res is perfectly sound in its own right; it will be useful to pilot it alongside EI as a comparative exercise.

Is there an objection in principle to doing the EI pilot quickly, reliably and well?

Yours sincerely,

Oliver Cyriax

Encl: Attachments 1 and 2

Newsline Extra

Family Resolutions v Early Interventions

The EI project is not being taken forward:

Mavis Maclean's exposition of the family resolutions pilot project ([2004] Fam Law 687) provides the answer to the question – whatever happened to the early interventions project (EI project)? The EI project, formally submitted to the Department for Education and Skills (DfES) and the Department for Constitutional Affairs (DCA) on 8 October 2003, after 8 years' development, was fully specified, properly designed and costed. It commanded across-the-board professional support. The position at that time was clear cut:

'The need was not so much for an open-ended inquiry into what to do but the more proactive task of ensuring that an early interventions trial ... actually occurred.' ([2003] Fam Law 455)

A close study of the EI project, as submitted, and the family resolutions project (FR project) described a year later, does not disclose any significant similarities between the two.

This is not what was meant to happen. 'Family Resolutions' was billed as 'Early Intervention' under a different name. In the words of DCA Minister, Lord Filkin, in a letter to the Coalition for Equal Parenting, dated 29 April 2004: 'The early interventions project, developed by the [organisation] New Approaches to Contact (NATC) and others, is being developed and taken forward'. This letter, which first introduced a sentiment repeated in Mavis Maclean's article, explained the technical reason why the project was 'renamed the Family Resolution Project', namely that 'whilst the intended intervention is early in the current court process, it is not early in the process of relationship breakdown'.

So what are the differences between the two projects? And do they matter? The core of the EI initiative hinged upon giving parents guidance, before the case, on how much contact there should be. This development, which finds no counterpart in the FR project, entailed a new partnership between the courts and child development experts. Together they would devise parenting plans which would set out norms of contact as a framework for negotiation. Judicial support for the concept of parenting plans always lay at the heart of the EI project. Without backing from the court, any guidelines would be written in water. As Bracewell J observed, summarising the NATC's 2003 conference in its publication *Early Interventions – Towards a Pilot Project*: 'This is the way forward ... It would be incomprehensible if the pilot project did not receive official sanction from the DfES'.

But the incomprehensible did happen. **On examination, it transpires that the FR project is based upon a well-rehearsed mantra – 'every case is different' – which is the antithesis of EI.**

Bringing the two projects into alignment would not be a simple matter of changing horses midstream. This is not just because the Children and Family Court Advisory Support Services (CAFCASS), which will apply conciliation under the FR pilot, has confirmed its stance that 'every case is different'. Its view that there are no categories of case (see *Contact: Principles Practice Guidance and Procedures* (CAFCASS, 16 August 2004)) means that there can be no parenting plans outlining what should happen in the various case categories. Equally important, **every component and every protocol of the two divergent projects are designed for a different function.** The EI parenting plans would not be agreed by the court and its experts, nor be backed by the court, nor be issued by the court, nor be applied by the court, nor be disseminated by the court. Nor could they take root throughout ancillary support services such as mediation, legal professionals and potential litigants.

This does not mean that the FR project is not a useful undertaking in its own right. The pre-court group sessions – one 'to refocus on the child's needs' and the other, on 'conflict management' – could pay dividends. FR is also bound to yield valuable

data on how much can be achieved by a careful repackaging of the existing regime. But by the same token it is not the same as the EI project.

Perhaps the least useful outcome would have been a half-way house where a sound concept was marred by poor construction or indifferent management; or where a slipshod version of the new thinking was adopted. The FR project eliminates this risk. **There is no overlap between the two projects.**

This means that the way remains clear to pilot the EI project as originally designed and agreed. The two pilots (EI and FR) could run side by side as distinct comparative exercises at different courts. This could not come too soon, not least because the support for EI, which was sufficient to secure its submission, acceptance, ministerial assent and funding, has not abated. Written statements of support are on the record from the President of the Family Division (*Re S (Contact: Promoting Relationship with Absent Parent)* [2004] EWCA Civ 18, [2004] 1 FLR 1279, at para [12]), the High court judiciary (Munby J (*Re D (Intractable Contact Dispute: Publicity)* [2004] EWCH 727 (Fam), [2004] 1 FLR 1226, at paras [37]–[38]), Bracewell J (*Early Interventions: Towards a Pilot Project* (NATC, July 2003)), the Family Law Bar Association (by letter to the DfES Project Chair (9 March 2004)), Solicitors Family Law Association Chair ((2004) 104 *SFLA Review* 12), the Coalition for Equal Parenting (by letter to the DfES Project Chair (29 March 2004)), and Dr Hamish Cameron (*Early Interventions: Towards a Pilot Project* (NATC, July 2003)).

The Green Paper, *Parental Separation: Children's Needs and Parents' Responsibilities*, Cm 6273 (2004), adopts, at paras 4 and 55, the EI concept of time-linked parenting plans as the key to resolving contact disputes. In line with the ministerial view on the continuity between the FR and EI projects, parenting plans are proffered as the backbone of the government's s 8 reform project. Hence the conundrum of the present situation: the FR pilot – produced by civil servants – does not have the prime characteristic supported by the Cabinet - but the civil servants have not produced the EI pilot, which does have the prime characteristic supported by the Cabinet. **The inference – that EI lost its way in Whitehall's bureaucracy – is borne out by the project's history. Put forward as a fully articulated concept ready for installation, it has not been seen since.**

Should the FR project have been produced in-house by civil servants? After, as the author is aware, the DCA forwarded the EI project to the DfES for implementation – intact, approved and with a plan for external local management – the DfES then set up its own in-house design team. This curious step (for a project where the design had already been finished) had a marked consequence. By the time the DfES design team first met in March 2004, knowledge of what the project was about had been lost. Core EI documents did not reach the DfES project manager until May 2004 when the project was nearing completion.

How did this happen? One answer is that 'Family Resolutions' is the name of an old CAFCASS project which was undefined and unfunded. From the moment the EI project first went to the DCA in the autumn of 2003 it became evident that EI would attract funding. CAFCASS was well placed to claim EI as 'its' project.

It is the author's understanding that the customary procedure would have been to commission the project out to an independent management agency which would have retained the project originators. Had this happened, the EI pilot could and would have been up and running by September 2004.

Independent management adds commitment and expertise and removes the project from the political (in its broadest sense) arena. Under independent control, turf wars, demarcation disputes and extraneous considerations of institutional prestige should abate. Perhaps such a solution will have been adopted, or be in the offing, by the time these words find their way into print.

Caroline Willbourne, Barrister, One Garden Court, Temple, London

----- Original Message -----

From: oliver cyriax

To: Bruce.CLARK@dfes.gsi.gov.uk

Cc: Althea.EFUNSHILE@dfee.gov.uk ; HORNE, Alexander

Sent: Wednesday, November 17, 2004 9:31 AM

Subject: Misleading the SFLA

The EI project is being taken forward:

Bruce:

It was saddening that you used the SFLA meeting yesterday to misinform the audience (of, say, 100 lawyers, including many eminent QCs, family law judges and the President) about the Family Resolutions pilot.

The Fam Res pilot is not - as you stated - the same as the pilot envisaged, discussed or agreed by D J Crichton's Ad Hoc Group.

The Fam Res pilot is not - as you stated - based on the Florida model.

The Fam Res pilot does not - as you stated - "take this work" forward.

The Fam Res pilot does not - as you stated - derive from the Early Interventions project.

Family Resolutions:

- (i) stopped this work
- (ii) reversed it

The two projects are opposites.

I suggested afterwards, and I suggest again, that it would be more helpful to accept the reality: that the Fam Res project which you decided to produce is entirely distinct from the Early Interventions project submitted.

Regards

Oliver

PS It would be nice to accept your view, propounded subsequently, that your beliefs are 'sincere'.

This entails accepting that you have not read one of the many thousands of pages of documentation relating to the project, i.e. that you have not read the primary papers, have not read the secondary papers, have not read the tertiary papers, and have not read their historical antecedents going back to the 1996 work of the Association of Family Court Welfare Officers; and, of course, that you have not discussed your version of the project with the project originators.

UNINTENDED MINISTERIAL MISSTATEMENTS

- 13 December 2004 -

- Family Policy -

The EI project is being taken forward:

The Rt Hon Margaret Hodge to the House, Hansard 1463:

“I give the right hon. Gentleman my absolute assurance that I would be the last person to rule out any ideas that would enable us to manage these difficult issues with the interests of children at their heart.”

Facts:

- (i) The Rt Hon Margaret Hodge has ruled out the Early Interventions project
- (ii) The EI project had across-the-board legal and professional support as a pilot to manage contact issues in the interests of children

The Rt Hon Margaret Hodge to the House, Hansard 1468:

“To suggest, as the Opposition have, that we have abandoned what was known as the early interventions initiative is simply a travesty of the truth.”

Facts:

- (i) The Government has abandoned the Early Interventions pilot
- (ii) The Government concedes it has abandoned the EI Pilot⁸

The EI project is being taken forward:

⁸ Rt Hon Margaret Hodge, 1467, opposing the Opposition’s motion: *‘The proposed amendments to the statute [including the proposed presumption of reasonable contact] add nothing to the existing arrangement that both parents, where they have parental responsibility, are equal before the law.’*

The DfES Fam Res project (swapped for EI on the mistaken basis that it was same as EI) does not incorporate the presumption of reasonable contact.

The Minister and the Government opposed the presumption of reasonable contact in the House on 13 December 2004. EI embodies the presumption of reasonable contact; Fam Res, as the DfES additionally concedes in correspondence, does not. The two projects are opposites.

Next Steps, DfES, January 2005

Para 62:

Some respondents pressed for a model similar in design to the 'early interventions' scheme in Florida. Both ideas work from the principle that solutions devised by parents themselves are more effective than orders made by the court.

THEORY:

'I should highlight that New Approaches to Contact have been involved throughout the Department's Consultation on the Green paper Parental Separation: Children's Needs and Parents' Responsibilities. **I have personally met with the Director of NATC to discuss the early interventions proposals to which (your constituent's) letter refers.**'

The Rt Hon Margaret Hodge, 24 Jan 05, MH to Eric Forth MP (2004/006556POMH)

PRACTICE:

"Neither I, nor the Design Group, for the Family Resolutions Project have met New Approaches to Contact (NATC).

The Rt Hon Margaret Hodge, 2 March 2005, in reply to a Written Question from Eric Forth MP

The Guardian

Comment , Wednesday January 19, 2005, page 24

Yvonne Roberts: <http://www.guardian.co.uk/comment/story/0,,1393463,00.html>

Batman will soon claim his first maternal scalp - to the good of no one, least of all the children. Today three cabinet ministers, led by the education secretary Ruth Kelly, will announce concessions to groups, such as Fathers4Justice, campaigning for greater rights of access to their children.

Divorced mothers who defy court orders will be tagged and kept to a night-time curfew. They may be fined - a great help to children probably already reared on a much reduced family budget. Or ordered to spend Saturday afternoons doing community service while dad has the offspring (as if mothers need to be reminded what it means to give selflessly).

Fathers4Justice isn't happy because it still means mothers will escape jail, while its demand for 50:50 custody has been ignored. Still, in terms of children's welfare and family law, these proposals are disastrous. Far from easing the relationship between father and child, they will turn mothers into martyrs, adding to a child's guilt. **This policing of family life is all the more reprehensible because a constructive alternative is available. It is one that could genuinely improve life for the children of parents who live apart. Except that the scheme, the Early Interventions project (EI), has now effectively been buried as a result of Whitehall turf wars and civil service infighting. EI, based on a successful model used in Florida, has three key features.** First, in families where the child is not at risk from a parent's behaviour, it is automatically assumed that he or she will spend between 70 to 100 nights a year with the non-resident parent. Second, couples attend mandatory courses that help them to understand the impact if a child is turned into a weapon in a post-matrimonial war. Third (and rarely employed), if a parent persistently refuses to comply with contact arrangements, then punishment follows.

The British version welcomed a new partnership between courts and child development experts. Crucially, it also set a common baseline for contact, of up to 100 days per year with the non-resident parent, backed by the lever of the law and parental education. **In October 2003, EI arrived at the Department for Education and Skills as a pilot project with ministerial backing. But in the hands of civil servants it underwent an Alice in Wonderland conversion. Without discussion or review (in contrast to the eight years it took to formulate EI), the scheme was renamed - it is now called the Family Resolutions project - and the basic premise discarded. It now operates under the ridiculous maxim that "every case is different", the very antithesis of the Florida philosophy. And, since every case is different, the opportunity to ensure a real cultural shift towards a child's right to maintain contact with both parents - who are also required to behave like grown-ups towards each other - has been lost.**

The Family Resolutions project isn't all bad. It requires parents "to refocus on the child's needs"; it is retraining the judiciary and it teaches conflict management. But **it has scuppered the chance to build a fresh consensus in this divorce-prone society; to build a society that acknowledges that it is best that a child maintains regular, good-quality contact with the non-resident parent...**

Is there any chance of a happy ending? Caroline Willbourne, a family law judge, has made the sensible proposal that the original Early Intervention project be restored, under independent management and out of civil-service control, and monitored in a pilot scheme alongside Family Resolutions to see which is more effective... Instead, the government has opted to put mummy in the stocks. That will achieve nothing except to turn matriarchs into militants and create needless misery for yet more children.

The EI project is being taken forward & is not being taken forward:

BLACK = WHITE = BLACK = WHITE

1.

“The Early Interventions project which was developed by New Approaches to Contact (NATC) and others, is being developed and taken forward.”

Lord Filkin, 29 April 2004, to the Equal Parenting Coalition

2.

“Thank you for seeing me on 5 October. To summarise our meeting:

- The project launched by the DfES in September ‘04 (FamRes) reverses the judicially-agreed EI project submitted fully-designed in October ‘03.
- Whitehall has built the wrong project.”

NATC to Lord Filkin, 12 October 2004

3.

“To suggest, as the Opposition have, that we have abandoned what was known as the early interventions initiative is simply a travesty of the truth.”

Rt Hon Margaret Hodge, 13 December 2004; to the House

4.

“At no stage did the Government agree to implement the New Approaches to Contact Early Interventions project”

The Rt Hon Margaret Hodge to the NATC, Letter dated 3 February 2005

5.

“In no sense has there been any abandonment of the Early Interventions initiative as proposed by NATC... I also attach a table for your information that shows the differences between FRPP and Early Interventions.”

Text of standard DfES email, e.g. 2 March 2005

6.

“The Fam Res project now produced does not resemble the agreed EI project. In fact, Fam Res is opposite of EI. Work on the EI project never started.”

Letter, NATC to Lord Filkin, 6 April 2005

7.

“In no sense does this mean there has been any abandonment of the Early Interventions initiative as proposed by NATC - rather an adaptation.”

Lord Filkin, 13 April 2005, to FNF, 2005/0016009POGF

The EI project is being taken forward & is-not being taken forward:

From: Michael.HOWARD@dfes.gsi.gov.uk
To: dave.mortimer@tiscali.co.uk
Sent: Wednesday, March 02, 2005 10:20 AM
Subject: RE:

Dear Mr David Mortimer

Thank you for your email of 6 February to the Secretary of State. I hope you will understand that the Secretary of State receives a large amount of correspondence and is unable to reply personally to each one. I have been asked to reply to your email on behalf of Ruth Kelly and Margaret Hodge, who are part of the same ministerial team, working together on the issues you raise as well as with their counterparts at the Department for Constitutional Affairs.

The Family Resolutions Pilot Project is piloting a model of dispute resolution in child contact cases, without needing full intervention of the court. It is one of a range of measures the Government is implementing to encourage and support parents devise themselves practical and flexible contact arrangements, in the best interests of their children. The Pilot is being run in the Inner London Family Proceedings Court, Brighton and Sunderland. It will test the effectiveness of group discussions in raising parents awareness of their children's needs, following their parents' divorce or separation. Then, with the aid of the Parenting Plans and the advice of a CAFCASS officer, participation in the Pilot will help parents to develop contact arrangements themselves.

The Pilot Project is overseen by a Steering Group made up of representatives from the Department for Education and Skills, the Department for Constitutional Affairs, CAFCASS and the judiciary. The Pilot's Design Group was made up of representatives from the aforementioned, as well as family law solicitors and the parenting organisations, RELATE and the Parenting Forum.

In no sense has there been any abandonment of the Early Interventions initiative as proposed by NATC (**untrue**) - rather an adaptation (**untrue**) . We have been well aware of the Early Interventions proposals (**untrue**) and how it links to what is practiced in other jurisdictions (**untrue**). In fact this informed planning of the Family Resolutions Pilot Project (**untrue**) . However, there are sound reasons why we could not adopt Early interventions as proposed by NATC to our own jurisdiction (**untrue**). Early Interventions would be compulsory (**untrue**) with a legally enforceable minimum of contact time for both parents (**untrue**) . The Children Act 1989 (England & Wales) does not have a legal presumption of contact (**untrue / grossly misleading**). The principle of the Act is that the interests of the child are paramount, not the rights of parents (**misleading**). Furthermore Family Resolutions is not compulsory; it can only work if people want to engage with it. There is, though, a clear expectation among the Judges, legal advisors, court staff and welfare organisations that the normal procedure involves participation in the scheme (**untrue**). Responsible parents and other parties applying for contact are unlikely to decline to be involved in a system which will give the best chance of satisfactory resolution at the earliest opportunity.

I also attach a table for your information that shows the differences between FRPP and Early Interventions (**misleading, untrue and contradictory**).

Yours sincerely

Jennifer Robson
FAMILIES IN CHANGE TEAM
VULNERABLE CHILDREN
jennifer.robson@dfes.gsi.gov.uk
<http://www.dfes.gov.uk/index.htm>

Your correspondence has been allocated the reference number 2005/0006316

Fam Res is not being taken forward (?)

Theory:

“Participation [in Family Resolutions] is not mandatory, though there is a strong judicial expectation that parties to cases will participate. **We expect that this will be quite sufficient in the vast majority of cases**”

Next Steps, para65

Practice:

The Family Resolutions Pilot Project is running in three areas—Brighton, Sunderland and the Inner London Family Proceedings Court—from September 2004 to September 2005.

Margaret Hodge: holding answer 21 October 2004

As at 15 March, 25 cases, comprising 50 parents, have been referred to the Family Resolutions Pilot Project and six cases, comprising 12 parents, have attended the CAFCASS-conducted parent planning stage of the project.

Margaret Hodge, 23 March 2005

SUNDAY TELEGRAPH, 3 April 2005

Only six couples sign up for Hodge's 1 million pound mediation scheme

PATRICK HENNESSY Political Editor

”A one-million pound government project aimed at mediating between warring parents has attracted just six couples in its first six months. Margaret Hodge, the children's minister, now faces accusations that she introduced the Family Resolutions pilot scheme simply to try to ward off protests from the Fathers4Justice pressure group until after the general election, expected on May 5....

Ministers expected at least 3,500 couples to join the scheme which, if successful, was to be implemented in courts across the country.

A parliamentary written answer from Mrs Hodge, however, has revealed that only 25 couples were referred between September and March, with only six of them attending the "parent planning" stage.

The scheme, which cost an estimated pounds 1 million to set up, now appears close to collapse....”

Email: Sir David Normington – Consensus

----- Original Message -----

From: David.NORMINGTON@dfes.gsi.gov.uk **To:** DAVE.mortimer@tiscali.co.uk

Sent: Monday, April 11, 2005 9:42 AM

Subject: Bruce Clark: Major Distortions of Family Policy

Dear Mr Mortimer

Thank you for your email of 24 March in which you express concern on your own behalf and others, that Bruce Clark has taken matters of national policy into his own hands, and has misled the public in relation to the design and implementation of the Family Resolutions Pilot Project. I have looked into this matter and can re-assure you that this is not the case.

... (*para 4:*) The “Early Interventions” proposals did inform the design and planning of the Family Resolutions Pilot Project. However, there are sound reasons why we could not adopt in full, the “Early Interventions” proposals, as proposed by New Approaches to Contact (NATC). Participation in “Early Interventions” would be compulsory with a legally enforceable minimum of contact time for both parents. Our current legislative framework would not allow this. The Children Act 1989 (England & Wales) does not give a legal presumption of contact. Rather, the principle of the Act is that the interests of the child are paramount...

Your sincerely,

David Normington

Permanent Secretary
Department for Education and Skills

----- Original Message -----

From: dave.mortimer@tiscali.co.uk **To:** David.NORMINGTON@dfes.gsi.gov.uk

Sent: Monday, April 11, 2005 1:44 PM

Subject: Bruce Clark: Major Distortions of Family Policy

Dear Sir David,

Thank you for your email of 11 April. You are correct in assuming that a formal complaint against Mr Bruce Clark is in preparation. It will be submitted in writing with full documentation and multiple signatories.

In the meantime, I make the point that your email to me (9.42 a.m., 11 April) exemplifies the problem.

You repeat the exact misinformation which gives rise to the complaint.

I imagine that these misapprehensions emanate from Mr Clark. If you look at your Paragraph Four you will see the difficulty. We now have an escalation of the problem. You, like the Ministers, have been misled by Mr Clark. Misstatements issued by Mr Clark are now, in addition to tainting family policy, tainting the voice of the Permanent Secretary.

I will be in touch with formal paperwork in due course.

Yours sincerely,

David Mortimer

A Smoking Gun?

From: Anne Harris
To: David.NORMINGTON@dfes.gsi.gov.uk
Sent: Tuesday, April 19, 2005 5:18 AM
Subject: Fw: Bruce Clark: Distorting Family Policy - Misleading Ministers.

Dear Sir David,

Thank you for your quick response to my e-mail of the 12th April 2005.

I am again contacting you because I am in receipt of e-mails containing issues relating to the integrity of Mr Clark. There is an easy way to settle these issues and that is to ask Mr Clark to produce the Minutes for the first Design Team Meeting held on the 17th March 2004.

These minutes will confirm I am sure, that in addition to misleading Ministers, Mr Clark now uses you as a conduit for his deceptions. The Minutes for the 17th March 2004 Design Team will show:

- i) The E1 project originators were not included in the Design Team
- ii) The E1 project documentation was not distributed to the Design Team Members.
- iii) Neither the detail nor the substance of the E1 project was discussed by the Design Team (then or later).

The facts are on public record Sir David - you can read them in **Family Law** (pasted below).

I look forward to a full response.

Yours cordially,

Anne Harris

CONTACT: APPENDICES

The Genesis of this Complaint

Signatories' Protocol

The Signatories

----- Original Message -----

From: dave.mortimer@tiscali.co.uk

To: Michael.HOWARD@dfes.gsi.gov.uk

Sent: Friday, March 04, 2005 3:55 PM

Subject: Family Law: DfES efforts to deceive the public are no basis for national policy

Dear Mr Howard,

Thank you for your email of 2 March signed by Jennifer Robson. Many of the assertions the Department makes are:

- blatant untruths
- gross distortions
- overt contradictions

Efforts to deceive the public are no basis for national policy.

The departmental failure to introduce Early Interventions after its DCA approval has wasted something like £500 million a year - backdated to October 2003. This was when a Mr Bruce Clark - without telling anyone - first decided to discard EI and embark on a jaunt of his own.

We have here, embodied in your email, an attempt at a cover-up; which involves the Department in further deceptions, compounding those recently exposed in the Guardian. I paste below a sample of corroborative correspondence indicating the problem's gravity.

What formal channels are open to the public to lodge a complaint against individual civil servants on points of mendacity and mismanagement?

I set out some considerations below, and look forward to your reply.

Yours sincerely,

Dave Mortimer

From: Michael.HOWARD@dfes.gsi.gov.uk

To: dave.mortimer@tiscali.co.uk

Sent: Thursday, March 24, 2005 4:03 PM

Subject: Bruce Clark: Major Distortions of Family Policy

Dear Mr Mortimer

Regarding your emails of 4 and 14 March, you may wish to direct your complaint to the Permanent Secretary of the Department, David Normington.

You can do this by email to complaints.peu@dfes.gsi.gov.uk or in writing to

Sir David Normington
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

PROTOCOL: Signatories' Declaration

By replying to this email, and giving my contact details, and my membership of any relevant bodies, I agree that my name should be added to the list of co-signatories of the Consensus (FLR) letter to Sir David Normington on the substitution of the EI project by the Fam Res project by Mr Bruce Clark.

I confirm that I have read and agree with the Consensus FLR letter to Sir David Normington; and that I have read, understood and am familiar with the contents of the Exhibits attached to the Normington letter.

- 1. Name:.....
- 2. Address:.....
- 3. Postcode:.....

phone number.....

4. Position in any relevant organisation

(e.g. Secretary, Consensus; Mediator (UKCM); Local Convenor, F4J; Member, FNF; solicitor, SFLA)

.....

Signatories to the Consensus

Sir William Arbuthnot
FNF Ctee Member
37 Cathcart Road, London SW10 9JG

Jane Carr
Liberal Democrat Parliamentary Candidate
Milton Keynes

Lisa Cohen
Chairperson, JUMP (Jewish Unity for Multiple Parenting)
020 8386 1693(h) 020 8386 6282(fax) 07818 064620(m) lisaa.cohen@ntlworld.com

Tony Coe
President, Equal Parenting Council; member, Assoc of Family and Conciliation Courts, ConAffCom witness.
Saunders 1865 Building, 38-40 Gloucester Road, Kensington, London, SW7 4QU

Celia Conrad
Member, Law Society, Resolution (formerly SFLA); freelance legal consultant and writer. ConAffCom witness.
Briar Cottage, Hartley Downs, Purley, Surrey CR8 4ED

Leigh Davison
Administrator, F4J North East
256 Whickham View, Denton Burn, Newcastle, NE15 7HQ.

Richard Fromholz
Chairman, F4J Scotland
Crawpeel Road, Altens, Aberdeen AB12 3FG

John Green
Director, www.false-allegations.org.uk/
Helpline: 0870 241 66 50

Anne Harris / Rosemary Cockrill
Chair, St Neots Abuse Project; member, Coalition for Equal Parenting
PO Box 57, St Neots, Cambridgeshire PE19 1AA 01480 396500

Jimmy Deuchars
Chairman, Grandparents Apart
22 Alness Crescent, Glasgow G52 1PJ,

Dave Ellison
International Co-ordinator, Fathers for Justice
Warrington, Cheshire WA5 2QF.

Anthony Esler.
Branch Secretary, FNF East Anglia Branch

Stephen Fitzgerald
Chairman, Mankind Initiative; Chairman, Coalition for Equal Parenting
Municipal Building, Corporation Street, Taunton, Somerset TA1 4AQ

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COMPLAINT RE: INFLUENCE OF BRUCE CLARK

In 1999 I gave evidence to an NHS Government Inquiry - the Griffiths Inquiry - into alleged malpractice by Professor David Southall who was employed by the North Staffordshire NHS Trust.

When the Griffiths Report came out I was named as a professional who had given evidence in relation to the erroneous thinking and methodology of Munchausen's Syndrome by Proxy.

The Griffiths Report included a paragraph on the concept of Munchausen's Syndrome by Proxy ('MSBP') and its potential for errors of judgement.

This was how I come to be conversant with the evolution of the MSBP guidelines.

Background

My first letter of concern about the dubious influence of warped MSBP theorising, dressed up as a beguiling, rare medical disorder, had been published two years earlier (*The Psychologist*, 1997).

I feared that this type of thinking, and the methods and draconian actions which flowed from it, could rapidly work their way through the system causing untold damage. Unless the flawed thinking was stopped in its tracks, it was a concern that it could become a basis for accepted practise.

The core problem in this sector is simply put.

There are many innocent explanations for conditions which might be labelled as MSBP - later referred to as FII (feigned or induced illness) and interwoven into thinking about Shaken Baby Syndrome (SBS). In addition, a score of bona-fide medical disorders are known to give rise to similar symptoms as well as adverse reactions to various medical interventions. All in all, MSBP is a diagnosis to be used sparingly with great care.

The Editor of *The Therapist* contacted me after reading my letter. As Professor Meadow had also written a piece in that Journal, she also asked me to write an article. It came out in 1998. In parallel with these efforts, which included numerous letters, more articles and a 1997 New Zealand TV3 Medical Documentary, I made diplomatic attempts to alert the Civil Service and Ministers to my concerns.

It was in this context that I was asked to give evidence at the Griffiths Inquiry.

Mr Clark's Remit: The Griffiths Report

At that time, MSBP was very much a newcomer of uncertain provenance on the medical scene. But it had already attracted an enthusiastic following. This fell within the ambit of the North Staffordshire Inquiry.

At paragraph 12.4 of his report, Professor Griffiths dealt with concerns arising from the diagnosis and prosecution of parents alleged to be suffering from MSBP:

"In order to assist in the correct identification of children who have either had illnesses induced or fabricated by their carer, the Review recommends that the Department of Health should convene an Expert and multidisciplinary panel which reviews methods of identification, including the use of covert video surveillance, within the framework of the Government's interagency guidance for child protection "Working Together to Safeguard Children" (1999). Guidelines would aid professionals in their identification of this type of abuse and would suggest good practice in multi-disciplinary and multi-agency management of such cases"

The Griffiths thinking was clear: the immediate, gateway concern was the '**correct identification**' of cases and a '**review**' of the '**methods of identification**'.

The report's thrust was the development of proper diagnostic criteria to counter an inflow of extreme and unfounded diagnoses, based on equivocal ephemera which were typically indicative of alternative and innocent explanations.

As subsequent events show, this prudent remit was seized upon as an opportunity to develop a 'medical theology'. Under Mr Clark's chairmanship, the Griffiths Report was to become the platform for the reverse assumption and a false premise: that MSBP was a robust medical construct, commonplace, justifying radical intervention, which could be confidently inferred from ambivalent trivia.

In a brief discussion with Professor Griffiths I asked if he thought I should be on the Panel (which was to become Mr Clark's Working Party). He said he did. I then called Lord Hunt's office and they asked me to send my CV.

Early Omissions

Some months later, with no sign of a Working Party, and no response to me personally, I was asked to speak at a conference on this issue at Durham University.

Prior to the conference, I needed to find figures for allegations of MBSP for my paper (*'Adding Insult to Injury: False MSBP and Acquired Autism'*). Given the recent profile of MSBP, it was likely that the figures would have risen considerably. I contacted the Department of Health as I felt this would surely be one of the first steps in the recommended review of 'methods of identification'. I was surprised to find that they did not keep figures on MSBP allegations.

When I asked about the Working Party I was told to contact Bruce Clark. He was in overall charge. When I spoke to his office and asked if the Working Party had produced such figures, or indeed, if there even was a Working Party, I heard some laughter in the background as the person I spoke to asked those in the office.

I was then told to contact Jenny Gray.

Packing the Committee

Jenny Gray's involvement came as a shock.

I knew that Jenny Gray had previously been in the Social Services Department in Great Ormond Street.

To my certain knowledge Jenny Gray had assisted the now-disgraced David Southall into taking at least one child under the false guise of MSBP. There had been no concerns about the family prior to that time, and, for the record, I mention that this case is one of many complaints still going forward to the GMC against David Southall. The child, with a known serious medical condition, was that night placed in an experiment and brain-damaged. The case is in the public domain. From that point in time, it would appear that Jenny Gray rapidly climbed the promotional ladder in the Department of Health within the arena of MSBP. She has since been the person to meet groups such as the National Autistic Society when they raised concerns with Ministers.

I later discovered that the Working Party convened and overseen by Bruce Clark:

- did not include a dissenting voice on the MSBP hypothesis
- did include individuals who worked closely with David Southall

To go ahead, this latter group included those who still continue to work closely with David Southall and Roy Meadow's MSBP/FII/SBS agendas – despite public exposure of their illogical and destructive methodologies so dogmatically presented in the Criminal Courts.

Moving the Goalposts

In due course Mr Clark's Working Party produced guidelines which embedded the MSBP thinking into the system. Compounding the damage, the Royal College of Paediatrics and Child Health produced their own Guidelines which echoed the DoH Guidelines. The Royal College was, presumably, influenced by the Government document and perhaps minded to protect the reputations of both Professors Meadow and Southall who were paediatricians (the former a former President).

There was no reference in either document to undertaking the preliminary work which the Para 12.4 recommendations had been all about – to ensure *correct identification*.

I submitted a long formal document during the consultation phase (mentioned in the *Sunday Observer*, 'Ministers knew about Child Harm Theory'; Jamie Doward, January 2004).

This submission, receipt of which was not acknowledged, began by arguing that the Civil Service document started from the wrong premise; the submission went into great detail about the problems inherent in almost every paragraph.

The underlying problem was that the Clark Guidelines were only concerned with validating dubious methodologies *after* a person was suspected - and not with the crucial preliminary consideration envisaged by the Griffiths' Report:

should that person have been suspected in the first place?

Ensuring a correct identification was a crucial preliminary before Guidelines and policy were built - potentially not just on shifting sand, but on quicksand.

The proper concern was: What were the theoretical bases to that suspicion? Were the theories robust? Were there considered alternative differential diagnoses?

Given the power of rumour and the seriousness of cutting parents off from their children, and children from their parents, and maybe even imprisoning parents on suspicion or rumour (*The Psychologist* 1997) I considered that the standard of proof had to be set very high.

At the time I interpreted the DoH Guidelines - and I still do - as a cynical exercise to install the thinking of now-discredited individuals (whose thinking was already under serious clouds) into family policy. It was a particular concern that the vehicle for this doubtful enterprise was misuse of a very serious investigation – the Griffiths Inquiry – into the liabilities of this same thinking.

Mr Clark's Working Party departed from the recommendations of the Griffiths' Inquiry.

His Working Party was used not as a forum for serious discussion into the actualities of assessment but as a manifesto for MSBP.

A Unilateral Venture: Expanding the Department

Only those within the Working Party were privy to its inner dealings. I am, however, familiar with evidence of Jan Loxley-Blount. She had initially contacted me after hearing a piece on *Woman's Hour* where I spoke about the dangers in the use of this theory. Her account of the same events suggests that information regarded as inconsistent with the MSBP hypothesis was discarded or overlooked by the Clark Working Party.

I refer to Ms Loxley Blount's paper, "*The Role Of Government Edicts in False Allegations of Child Abuse*" for the 2004 UCAFFA Conference. The paper, extracted below⁹, makes the corroborative point that, even at the 11th hour, the Ministers and Civil Servants with secondary responsibility in this area:

⁹ "Draft guidelines on the identification of parents and carers supposedly guilty of inventing or inducing their children's illnesses were released in 2001. They read like the gospel according to Saint Roy and Saint David. Following my initial contact with Earl Howe and the subsequent meeting between Earl Howe, Nick Lyell, Charles Pragnell, Lisa Blakemore Brown and me there was a sense of needing a political focus to bring the question of false allegation of Child Abuse to the attention of Parliament.

My husband and I then met with Lord Clement Jones who then met with Earl Howe. These two front bench Health Spokespersons of the two major opposition parties alighted on the idea of a Lords Debate on False Accusation of Child Abuse to be opened by Earl Howe and summed up by Lord Clement Jones. The debate was eventually set for 17 October 2001 which was very timely as it was a few weeks before the closing date for evidence and comment concerning the draft FII guidelines.

In the run up to the Lords debate there was a flurry of activity. Earl Howe met Lord Hunt of Kings Heath of the Department of Health who would reply to the debate for the Government. Lord Hunt was flanked by key civil servants. **Earl Howe presented Lord Hunt with a compelling dossier of case histories and other information questioning or disproving the hypotheses of Meadow and Southall and suggesting that the proposed guidelines on FII were entirely inappropriate.**

He came away with the impression that this was the first time that key civil servants had heard anything contrary to the Meadow/Southall view. Earlier in that same summer I had written to Beverley Hughes and to Harriet Harman requesting a meeting to discuss MSBP. I had known and worked with Harriet on the issue of after school and holiday provision. My letter was ignored until after Earl Howe's meeting with Lord Hunt.

- seem to have remained unaware that there were serious questions about MSBP
- had not seen the voluminous evidence contradicting the assumptions of their Chair

The Guidelines finally issued (*Working Together to Safeguard Children: Fabricated and Induced Illness*) permitted, and indeed encouraged, the making of these dangerous diagnoses on almost any grounds; and recommended rapid referral by medical practitioners when suspicion arose. These serious interventions were on the basis of a belief-system misrepresented as a robust scientific and medical theory.

The Guidelines also ensured that workers involved after the `referral` would believe they were acting on a reliable medical diagnosis which could not be challenged. From then on, alternative explanations would be ignored, and protestations of innocence warped into forms of `denial`.

Medical practitioners originally involved with the case would assume that the checks-and-balances would be dealt with afterwards by the social workers. Everyone involved laboured under the delusion that someone else would carry out, or had carried out, the necessary evaluation. As matters have unfolded, it transpires that medical practitioners could make the initial damning referral, or revise their previous sensible opinions, merely on the basis of an unqualified worker spreading a rumour based on this same erroneous thinking.

Social Consequences: The Scale of the Problem

Since the introduction of the Clark guidelines, the warped MSBP thinking has performed much as one would expect. It has snaked right through the system.

It has encouraged workers and professionals at all levels to think in a medieval manner and misconstrue what is in front of them. It has fostered a misplaced belief that the road to their suspicions is paved with robust science and indisputable medical evidence. It has fostered a misplaced belief that they are protecting children.

The anecdotal figure for the number of parents whose children are wrongfully removed by virtue of the MSBP / FII guidelines is generally agreed to run well into the thousands.

The costs to the State for the interventions, the Court cases, and the care of removed children has run into multiple millions.

Suddenly I was summoned to the Department of Health. I took Lisa Blakemore Brown and my husband with me. We met with two of the same civil servants who had flanked Lord Hunt at his meeting with Earl Howe. They were fascinated by what we were saying and cancelled their next meeting to spend longer with us. I concentrated on the role of voluntary organisations whose propaganda leaflets were causing much confusion by citing as symptoms of supposed Child Abuse many things which could equally be symptoms of Autism, Asperger's Syndrome, ADD/ ADHD, Dyslexia, Dyspraxia, CFS/ME and a whole host of other childhood illnesses or disabilities. **The civil servants were effusive in their thanks and pressed us to contribute written comments on the FII guidelines. We submitted a thick lever arch file of compelling evidence from parents and professionals, together with conference speeches, academic theses etc. Other key professionals including Dr Paul Shattock OBE of Sunderland submitted their separate evidence.**

In the 17 October debate, when Lord Hunt replied for the Government we were all pleasantly surprised. He offered to meet Lady Mar and Lord Astor. He promised that speeches made in the debate and documents submitted would be taken into account when the draft guidelines were reviewed prior to publication. How wrong could we be?"

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The modern-day Barons Von Munchausen are Professors Meadow and Southall and the enablers such as Bruce Clark. It is a well documented area, save that the concerns which are well-known were 'paved over' by a Working Party supposedly established to investigate them.

Intellectual Consequences: The Wrong Mindset

Workers are encouraged to act in a punitive manner toward parents, wrongly believing in the theories now cemented into the system. Under this dubious mindset, every denial is seen as proof of guilt; every action, gesture or even facial expression can be 'morphed' to provide evidence of bad parenting or deliberate intention to harm children. Black becomes white.

No effort is made to change these approaches, which can lead to appalling outcomes for families. Every complaint, and every programme, article, or wrongly- convicted person freed is misapplied to embed the thinking more deeply. Unpalatable evidence is reformatted as proof of the dangerousness of 'these plausible people and their advocates' (*The Therapist* 1998).

Caught up in the shroud of psycho-analytic mystery is the idea that child abusers are highly plausible people who look perfectly normal. When applied without proper checks-and-balances, as it is, this idea becomes a licence to pursue cases on the grounds of lack of evidence. To case-workers reared in this belief, the only 'way out' is an admission of abuse.

Practical Consequences: the Aftermath of MSBP

Real illnesses and disorders are missed or ignored; what is seen misinterpreted as abuse. The MSBP / FII/ SBS assumption is used as a launching point to either take parents to Court to remove their children, or to engage them in misdirected "therapeutic exercises". Rather than caseworkers becoming more aware of the practical problems and real needs in relation to children's early illnesses, the opposite seems to have happened.

Ordinary parents are routinely accused of causing their children's difficulties.

Social services have no real understanding of autism and Asperger Syndrome. During a period in our history when there is an increase of bona-fide neuro-developmental impairments, children with these disorders are instead put on the At Risk Register or taken into 'care'. Once in care, these same children continue to suffer from the original problems previously considered factitious and blamed on their parents. Guidelines increasingly encourage social workers to see autism - and think attachment disorder.

The interpretative change can be clearly seen in changes in descriptions of children in adoption 'magazines' for prospective parents. Children with these medical conditions or related health conditions can be:

1. Removed from their parents under an official misapprehension

Such children are given to foster and adoptive parents, resulting in further harm as the children's health and educational needs are not met.

In some cases, the foster and adoptive parents are in turn blamed for the pre-existing conditions which do not go away, despite removal from parents

2. Used as a 'stick' to blame the parents who are allowed to keep the children

Parents falling into this category live intolerable existences under a cloud of suspicion, terrified into thinking their children could be taken, even in the dead of night. They face case conferences and core-group meetings. These meetings are frequently attended by people who have no knowledge either of their child or of their condition, yet who will be encouraged to keep them on the At Risk Register on the basis of the reports of others, similarly blinded.

Tactics to split the parents are routine.

Fathers are made to suspect their wives and vice versa. Parents are told that if they continue to support their spouse, they too represent a danger to their children as they are 'colluding' in the abuse. Many parents have succumbed to extreme pressure. Their testimony, induced by duress, is then produced as solid proof of abuse.

Some of these children and some of these parents are seriously ill, and indeed dying, because of these malpractices (*Private Eye* 26th April 2005).

A Slipshod Experiment in Social Engineering?

The concept of Child Protection could hardly have departed further from its intended goal.

If the mantra of 'the interests of the child come first' is to have weight, investigations leading to Government Guidelines and policy should be seriously undertaken.

The Clark MSBP Working Party demonstrates that not only were the investigations not a serious venture – the investigations were not undertaken at all.

Lisa Blakemore-Brown
25.4.05

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Lord Falconer
Department for Constitutional Affairs
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BY HAND
26 April 2005

Dear Lord Falconer

Distortion of Family Policy: Mr Bruce Clark and ‘Parental Separation’

Please find enclosed a set of papers about a DFES civil servant called Bruce Clark. Mr Clark has ‘bent’ family policy in pursuit of a personal agenda.

At the time the Green Paper on *Separating Parents* was launched, you may recall appearing on television saying something like: ‘We all know what we’re trying to do, we’re not quite sure how to do it’.

In saying this, you - like the other Ministers - had been misled by Mr Clark.

There was an agreement on exactly what to do. An high-level consensus was reached on this issue by an unparalleled body of established professional opinion. A detailed plan for family law reform (the ‘Early Interventions’ project) had been agreed after an intensive 8-year development trail. It was submitted to your Department, the DCA, and approved.

The EI project was transferred to Mr Clark in the DfES for implementation.

Without telling Ministers, Mr Clark disbanded the EI project. Instead, he substituted some unformed notion of his own (Family Resolutions - which has already failed). Throughout, Mr Clark pretended he was still working on the original EI project.

This is not the first time that Mr Clark has been involved in a similar sleight-of-hand.

Yours sincerely,

David Mortimer

cc Rt Hon Ruth Kelly; Rt Hon Margaret Hodge; Lord Filkin; Baroness Ashton

