

FACT (Falsely Accused Carers and Teachers)

**28th October 2008 - Submission to the
All Party Group on Abuse investigations (APGAI)**

1. INTRODUCTION

- a. F.A.C.T. appreciates being given the opportunity not only to report on its progress in recent years but also to highlight some specific issues which continue to cause us concern.
- b. F.A.C.T. (Falsely Accused Carers and Teachers) is a UK wide, membership based, voluntary organisation run by a national committee consisting of a Chairman, Secretary, Treasurer, three other committee members, regional representatives and co-opted members. It was founded in 1999.
- c. F.A.C.T. exists primarily exists to support carers, teachers and other professionals (i.e. paid personnel) who maintain they have been falsely accused, or wrongly convicted of abuse or misconduct, and lobby for change in investigative practice and in the criminal justice system. Regretfully we are not able to provide advice or support to individuals who have been accused of abuse by family members, close friends or neighbours.
- d. F.A.C.T. provides wide ranging services to its members, their families, and to the general public. This includes a helpline, advice and representation (mostly concerning employment and listing issues), and a range of support services for those in prison who maintain their innocence. We are self funding.

2. REFERRALS:

- a. In recent months F.A.C.T.'s membership policy has been widened to reflect demand and changes in public policy. We now support people accused of alleged abuse of vulnerable and/or dependant adults, as well those accused of alleged child abuse. A full list of those eligible for support and services is attached at the end of this report – see appendix 1.
- b. We will not allow anyone who has been found in possession of child pornography to become a member.
- c. During the preceding 12 months well in excess of 500 people have contacted F.A.C.T. About two thirds of those that do so require direct support. The remainder either require information or are referred to other sources of help and assistance.
- d. The nature of the referrals has also changed. In the past those who contacted us would almost exclusively be male care home workers, or male teachers employed in residential schools accused of historic abuse. This is no longer the case. There has been a significant reduction in the number of *historic* abuse cases being brought to our attention. It appears that this change reflects the fact that less institutions are now subject of historical investigations. This does not mean however that historic investigations no longer take place or that trawling no longer happens as recent cases in Scotland, East Anglia, Southern England and Jersey demonstrate. Whereas previously whole institutions were under investigation it is now more likely that isolated individuals (rather than groups of staff) will be under investigation.
- e. Perhaps the most significant change is that we are now regularly receiving referrals from women (including on occasions relating to alleged sexual abuse) and that teachers

- (particularly those in mainstream education) including head teachers, now represent the majority of our referrals. The number of care home cases in respect of staff employed in children's establishments has reduced considerably, however; this shortfall has been more than matched by the increases in referrals from staff working in adult care environments. We have also seen a very marked increase in referrals from health care workers, including doctors.
- f. A disproportionate number of referrals made to us are made by people from ethnic minorities. It appears to us they are especially vulnerable to complaints from service users and much more likely to be treated differently by their employers. Another vulnerable group are foster carers (men and women) and/or their own children. This group is especially vulnerable to miscarriage of justice because, historically, they have had no professional associations or trade unions to support them. We particularly welcome the support this group has received in the debates on the Children's Bill.
- g. Another category showing an increase has been the numbers of individuals approaching F.A.C.T. who work (paid or as volunteer) in their local communities, either as a youth worker or as a sports coach. We share the concern of the Children's Commissioner for Scotland (and others) that the fear of being falsely accused of abuse is now significantly affecting volunteer recruitment and is reducing communities capacity to make provision for children and young people. We are also aware that the recruitment of male teachers in schools is an issue, particularly in primary schools. It is a sobering thought that children can now pass through primary schools with out ever being taught by a male teacher. The link between absent fathers, diminishing male role models in the community, and inner city crime (especially knife crime) has been well established. We believe that male recruitment in the paid and volunteer sector will continue to decline

so long as the fear of being accused of abuse remains. We also note with some irony that community leaders are now calling for opportunities to place seriously delinquent young men in specialist schools where they might be given a chance to mature and excel without needing to resort to gun or knife crime. Years ago such young would have been placed in children's homes or residential schools where many (although not all of them) did very well.

3. Issues:

- a. Members of the APGAI will be very well aware of :-
 - a. the impact false of allegations of abuse have on individuals and their families
 - b. past investigative malpractice
 - c. the process issues involved in investigating allegations of abuse
 - d. the evidential hurdles which those accused of abuse, and in particular those accused historical abuse, have to face during court hearings
 - e. many of the societal responses which make it difficult for accused professionals (and others) to obtain justice e.g. moral panic, compensation and blame culture, society's devaluation of those who provide public services, disproportionate (but understandable) effect of tragic events (e.g. Huntley) on public policy, misinformation e.g. once a sex offender always a sex offender – in fact sex offenders are much less likely to offend than other offenders .

so we do not propose to comment on these except to say that:-

- b. F.A.C.T. is concerned about the increasing number of people it supports who are so traumatised by the allegations made against them that they consider killing themselves – indeed some do. There is something seriously wrong when the *fear* of being falsely accused was sufficient to cause one of our members to take his own life.
- c. F.A.C.T. recognizes that whilst there has been some improvement in police and CPS

- investigative practice, standards however remain variable within and between police force areas and prosecuting authorities. We have considerable anecdotal evidence that at operational level many police officers do not follow 'best practice' or the advice in A.C.P.O's senior investigating officer's manual. We have been surprised to learn that the original manual was not produced for operational use but as a policy response for the Home Affairs Select Committee when they met in 2002 to consider past abuse in children's homes [HC 836-1].
- d. We are also very concerned about the standard of investigative practice in contested cases of child abuse investigated by social service departments, and the N.S.P.P.C. in particular. We have particular concerns about the N.S.P.C.C. partly because they are, in our view institutionally biased ("children should always be believed") and partly because they are so child centered they find it difficult to be objective and independent. We are also concerned that they (and other child protection groups) cry wolf so often that the general public will no longer know whether their message should be supported or even believed. This has enormous implications for the protection of children. If the public lose trust and confidence in children protection agencies to act correctly and wisely children who are at risk will slip through the net – and die unnecessarily.
- e. We note that increasingly community groups and sports bodies are adopting safeguarding policies. This is a welcome development which F.A.C.T. fully supports. We are however concerned that such bodies are taking advice from the N.S.P.C.C's. and others on individual cases uncritically. Sports and community groups need to understand that when allegations are made there is process which requires them to consider both sides of a case. We know of a number of cases when sports coaches of repute and with a previously unblemished record are leaving their sports because of the way complaints against them were handled. Often it is the children who lose out.
- f. Similarly we have grave reservations about the quality of investigations carried out by some employers especially those from the private or voluntary sector who do not always have the necessary resources to carry out a fair and full investigations. We are heartened by the fact that both Employment Tribunals and Local Government Ombudsmen provide effective remedies in cases where the investigative practice or the

- process of inquiry has not been of the required.
- g. We are also deeply troubled by the increasing number of safeguarding consultancies being set up to provide risk assessments to employers and voluntary groups. Whilst some of them are excellent many appear to be staffed by individuals with very little experience, and are often not regulated.
 - h. F.A.C.T. notes with some disappointment that the number of successful cases referred to the Court of Appeal remains low and that very little headway has been made in persuading the Criminal Cases Review Commission or the Appeal Court that individuals known to us have been wrongly convicted of child abuse.
 - i. Some of our members go to extraordinary lengths to establish their innocence. Interestingly a number of them have resorted to polygraph testing – not that the results can be used in Court or have any evidential value. All received the exoneration they were seeking. We note with interest that the Home Office is intending to use polygraph testing as a tool to assess whether or not a released prisoner is complying with their risk assessment plan. F.A.C.T. welcomes this development and would very much hope that it use might be extended for determining whether or not accusers are telling the truth, or whether compensation claims have any merit.
 - j. We are aware that solicitors still routinely use the prospect of gaining compensation as the headline items in adverts they place in prison magazines. We accept that those who have been abused deserve to be compensated but think it is inevitable that some people in prison will be motivated to make false allegation in order to gain compensation. We are surprised that the Criminal Injuries Compensation Authority and insurance companies do not take a more robust attitude in sifting out genuine claim from fake ones.
 - k. We also recognize that compensation is not the only factor in generating false allegations. People basically make false allegations for two reasons. Firstly because they been misguided, perhaps unwittingly so, into believing that they have been abused, and secondly because they see advantages in doing so which outweigh the risk of being

- caught. It is still the case that a significant number of those making allegations do so after coming into contact with professionals who have been, or are, entrusted with their current welfare. What appears to happen is that these professionals need, as it were, to rule out the possibility that their clients presenting problems are not caused by past abuse. In doing so they unwittingly sow the seeds for exaggerated or entirely false accounts of their client's past experience. The other main reason why people make complaints is because it helps them come to terms with the fact that, generally, they have not succeeded in life. An 'abuse history' not only justifies the way they have turned out but also opens the doors to resources which they otherwise might not receive. Often the effect of all this additional attention, not to mention financial reward, is so intoxicating that they cannot resist the temptation to exaggerate or lie. In this respect they are victims of their own circumstances.
- l. F.A.C.T. is currently supporting over 50 people in prison who maintain their innocence and a similar number who have been released from prison. Indeed some early members of F.A.C.T. are in still in prison. Almost without exception they would say that they have paid a heavy price for maintaining their innocence, particularly when applying for parole. Despite reassuring messages from Government ministers and the judiciary that it would be quite wrong for the parole board to treat denial of guilt as reason for refusing parole we are constantly told that is exactly what happens. We are also frequently reminded that individual prisoners are invariably told that they pose a higher risk of offending than is the case with other prisoners. Clearly this is something prison officers believe despite the fact that this is not borne out by research. There is an urgent need for comparative research in recidivism rates between sex offenders who maintain their innocence *and those who do not*. We are not aware of any cases where any of the people we support have been reconvicted of *any* offence after their release from prison – except in the case of those released on appeal who have been subject to a retrial and reconvicted of their initial offences.
- m. Those who contact F.A.C.T. broadly fall into two groups - those who are (or have been) subject to a criminal proceedings, and those who have not been subject to criminal proceedings but are (or have been) under investigation by their employer, and/or by a local authority child protection team. In almost every abuse investigation the police are

- involved either as the lead agency or as part of a multi disciplinary group who are tasked with the responsibility of developing a strategy for safeguarding the person (child or adult) who is suspected of being abused, and for managing any necessary investigation. The inter agency arrangements are such that even if they are not present the police are provided with full details of the allegations made, and of the person(s) against whom they are made. This information is then filed on that person's 'criminal' record as 'soft intelligence'.
- n. In March 2002 the Criminal Records Bureau was established primarily to enable prospective employers to make safer recruitment decisions by identifying candidates who might be unsuitable for certain work. The C.R.B. were tasked with a responsibility to issue **enhanced certificates of disclosure** in respect of staff seeking to work with children and/or vulnerable adults. These certificates of disclosure not only include details of any convictions the employee might have had in the past but also, at the Chief Constable's discretion, details of any 'intelligence' which the police hold - including any not guilty findings and any relevant allegation history.
- o. Following the Soham tragedy the police now routinely record the *fact* that allegation had been made even if it turned out to be demonstrably false. What this means in practice is that employers will not engage anyone who has been the subject of an allegation in the past. The police have now become very aware of this and appear in many instances to be using this route as a means of 'punishing' those who have been found not guilty of offences, or have been cleared by an employer in the past.
- p. There are many people who believe that this system against which there is no appeal is inherently unjust. There have been a number of challenges in the Courts, including quite recently, all of which have failed. In a recent case the judge was sympathetic to the plight of the accused but said he could do nothing as Parliament intended the 1997 Police Act (Sect 115) which governs such matters to operate in this way.
- q. This is an issue which affects hundreds of innocent people every year. It is also an issue which frustrates many M.P's. We think the time has now come for the work of the Criminal Records Bureau and this piece of legislation to be reviewed, and for some

appeal mechanism or time limit to be put in place so that, for example, non conviction intelligence can only be included for specified period of time.

4. Other matters:

Finally there are three other matters which we wish to bring to your notice

- a. Firstly, F.A.C.T. welcomes the Government's action in setting up the Independent Safeguarding Authority. We have been assured by the Chief Executive of the ISA that they will adopt an evidential approach when deciding matters, and are reassured that there will be an effective appeal mechanism
- b. Secondly, we share the concern of Barnado's (and other groups) that plans to introduce a Sarah's law into the UK will be counter productive. Under the proposed scheme parents can be told details of anyone who has direct access to their children, who has a conviction for a sexual offence. We share a concern that those who have convictions for sexually abusing children, guilty or not, will feel so insecure and unprotected that they will either go underground or, as has happened in other jurisdictions, snap and in revenge commit an atrocious crime.
- c. Thirdly, we believe there is a now a strong case for the Government to introduce a **False Claims Act** which would make makes it a criminal offence for someone to knowingly accuse a person of physical or sexual abuse, or of any action which would damage their reputation to such an extent that it would threaten their right to family life, their right to associate with others, and their prospects of employment.
We do not accept the view that existing legislation is adequate. It is true that it is possible to prosecute people for wasting police time, and for perverting the course of justice but these actions can normally only be taken when matters are being, or have been, dealt with by the police or by the Courts.

We think it is clear from this submission that people's lives are ruined in circumstances where there may be little or no involvement by the police. We think it is right that there should be zero tolerance of those who abuse children but also right that there should be zero tolerance of those who knowingly falsely accuse innocent people.

28th October 2008

Appendix 1:

- Membership Criteria:
The current includes men and women who work (or have worked) in or on behalf of,
 - children's homes, community homes, or approved schools
 - mainstream education
 - special education (residential or day provision)
 - colleges, including further and higher education establishments
 - day care units (playgroups, child-minders, and nurseries)
 - foster carers
 - the voluntary sector (youth and community work including uniformed organisations and sports clubs)
 - health care provision
 - faith groups and religious communities
 - the police and prison services
 - the armed forces