CABINET

RESPONSIBILITY FOR THE CARE OF DEPRIVED CHILDREN

MEMORANDUM BY THE LORD PRIVY SEAL

Introductory

1. On 15th November the Prime Minister appointed a Ministerial Committee under the chairmanship of the Lord President of the Council to consider the recommendations contained in the Curtis and Clyde Reports (Cmd. 6922 and 6911) with a view to an early statement of the Government's attitude on the main questions of policy raised by these recommendations.

2. The principal recommendation made by both the Curtis Committee and the Clyde Committee was that central responsibility for the care of deprived children should be concentrated in a single Department and we all agree that this recommendation should be accepted. In accordance with their instructions the Committees refrained from suggesting which Department should be made responsible, and the main task facing us was to consider whether in England and Wales responsibility should be concentrated in the Home Office, the Ministry of Education or the Ministry of Health.

3. The Home Secretary and the late Minister of Education submitted memoranda to the Committee arguing in favour of concentrating responsibility in the Home Office and the Ministry of Education respectively; and the Ministry of Health circulated a memorandum by the Parliamentary Secretary to the Ministry of Health setting out the case for making the Ministry of Health responsible. Therefore, at a meeting of the Committee, the Ministers concerned were able to supplement the arguments in these papers and the Committee were informed of the provisional views formed by the Secretary of State for Scotland on the arrangements to be made in that country.

4. The Lord President of the Council, the Chancellor of the Exchequer and I have reached the conclusion that we can best help the Cabinet to reach decisions on the main questions of policy raised by the Curtis and Clyde Reports if we present to it the views which we ourselves have formed after considering the papers circulated to the Committee and hearing the arguments advanced by the other members of the Committee. We have accordingly set forth our views in the remaining paragraphs of this memorandum. The memorandum has been shown to the other members of the Committee, but they are not committed to its conclusions and have reserved the right to express their own points of view to the Cabinet.

Central Responsibility in England and Wales

5. Our view is that central responsibility in England and Wales should be concentrated in the Home Office. The main reasons for this are:

(a) The primary need of the deprived child is a substitute for a normal home life and the function of the Central Department is to see that, as far as practicable, he gets this. The provision of a substitute home is additional to and distinct from the provision of health services or education.

* The other members of the Committee were the Lord Privy Seal, the Chancellor of the Exchequer, the Home Secretary, the Secretary of State for Scotland, the Minister of Education and the Minister of Health.
The essence of providing a home for a child is to treat the child as an individual, and the need for this is stressed throughout the Curtis Report. The Home Office staff, both by tradition and by the nature of their work and training, are well qualified to deal with the problems connected with the care of deprived children from the point of view of the individual.

The Children's Branch of the Home Office have always had a general responsibility for furthering the welfare of children in all respects not the specialist concern of other Departments. Thus, among other matters, it has been responsible for guardianship of infants, adoption, inspection of voluntary homes and employment of young persons, all of which are unconnected with delinquency. Nor are its responsibilities in relation to Juvenile Courts entirely concerned with delinquency as such, since all children who for any cause are brought before a Juvenile Court come within the Home Office sphere of responsibility. It is, in fact, often more accident that determines whether a child is brought before a Juvenile Court as an offender or as in need of care and protection, and the Court deals with him not according to what he has done but according to what he needs. There is, therefore, no foundation for the suggestion that to make the Home Office the Department responsible for deprived children would mean putting such children under the care of a Department primarily concerned with delinquency.

The assignment of responsibility for deprived children to a Department other than the Home Office would have indirect disadvantages, since it would involve the transfer from the Home Office not only of their responsibilities for voluntary homes, guardianship of infants, &c., but also of their functions relating to approved schools and remand homes. It would be administratively extremely difficult to divorce these functions from those relating to Juvenile Courts and Probation, and the transfer would do a disservice to the cause of penal reform, progress in which has in the past frequently come about as a result of successful innovations in the institutions concerned with children and young persons for which the Home Office are responsible.

We considered fully the arguments advanced in favour of assigning responsibility to the Ministry of Education or to the Ministry of Health and we think it right that the Cabinet should be aware of these arguments and of the reasons which have led us to reject them.

The arguments put forward for making the Ministry of Education responsible were:

(a) Education is no longer a specialised service concerned mainly with mental training, and the Ministry of Education and the local education authorities are now responsible for securing that each child gets opportunities to develop the best in him in character and in body as well as in mind. Thus the Ministry and the local education authorities have been concerned with such developments as the school medical service, child guidance clinics, youth clubs, vocational guidance contacts with parents and children's homes; and they have responsibilities and experience in the running of children's homes and boarding schools.

(b) It was suggested that it should be an objective of policy to ensure that deprived children are not treated as a class apart and that this would be best secured by putting them under the care of the Ministry of Education and the local education authorities and so absorbing them into a service which deals with children generally and removing them from all connection with the workhouse or prison.

We agree that the aim should be to avoid, so far as possible, segregating deprived children from other children. But we do not accept the argument that to make the care of deprived children part of the educational service would involve less segregation than the arrangements which we propose. In so far as institutions for children survive under the new policy, the children in these institutions must be to some extent segregated from others, and even in the case of children boarded out with foster parents the arrangements for supervision will inevitably mark them as different from children living with their natural
parents, whichever Department is responsible. On the other hand, if the care of deprived children, who form only a small part of the total child population were made a part of the education service, the responsible authorities, with their many other preoccupations, might well fail to give deprived children as full a measure of individual attention as they require.

(c) It was argued that His Majesty's Inspectors of Schools constituted a much larger field staff to undertake the supervision of the arrangements made for deprived children than was at the disposal of the Home Office; and that, being located throughout the country, they were in a better position to maintain local contacts. It was also urged that these Inspectors had long experience in supervising living conditions through their work in inspecting boarding schools and that the Ministry of Education must in any case be responsible for inspecting in those institutions which are of the nature of residential schools not only the schoolroom work but also the living and feeding conditions.

In our view the qualifications required for inspecting the domiciliary arrangements made for deprived children are not the same as those required for an educational inspectorate, even with the present wide conception of education. We are satisfied that the members of the present Home Office inspectorate are well qualified for the task of seeing that an adequate substitute for parental care is provided and that this inspectorate could be expanded to enable the wider responsibilities which we propose that the Home Office should undertake to be discharged. At the same time we agree that the education of deprived children, including those in residential institutions, should be the responsibility of the Ministry of Education and that arrangements should be made for His Majesty's Inspectors of Schools to inspect the educational side of homes for deprived children.

(d) It was admitted that assignment of responsibility for deprived children to the Ministry of Education would involve the transfer from the Home Office of responsibility for approved schools and remand homes, but it was argued that this was right on merits.

In our view to transfer responsibility for approved schools and remand homes to the Ministry of Education would merely continue in another form the divided responsibility which the Government are already pledged to abolish. The Home Office could not relinquish responsibility for Juvenile Courts and the probation service and they would be bound to continue to be concerned with the administration of approved schools and of remand homes. (See also paragraph 5 (e) above.)

8. The arguments advanced on behalf of the Ministry of Health were:

(a) In order to avoid the segregation of deprived children from other children, the function of caring for them should be assigned to the authorities responsible for the maternity and child welfare service, the health visitor service and the expanded services for handicapped persons.

In principle this argument seems to us to be similar to that put forward on behalf of the Ministry of Education at paragraph 7 (b) above and we feel that it does not meet the essential point that the need of the deprived child is for a substitute for what the normal child gets from his parents.

(b) It was suggested that the Ministry of Health had acquired special experience in caring for deprived children as a result of their responsibility for the war-time evacuation schemes.

On this point we would merely observe that the experience of the Ministry of Health is very short compared with that of the Home Office, which goes back for more than 50 years.

9. Apart from the positive arguments for the assignment of responsibility to the Ministry of Education or the Ministry of Health, it was represented to us that a decision to make the Home Office responsible would be unpopular with local authorities, who would prefer to deal with the Ministry of Health or the Ministry of Education, and with women's organisations, who would regard the decisions as tantamount to entrusting the care of deprived children to the police.

We do not believe that the views of local authorities in this matter are primarily influenced by regard for the needs of the children concerned and they should not, in our view, weigh with the Government in the face of the administrative arguments which we have set out in paragraph 5 above.

As regards the views of women's organisations, it must be recognised that the assignment of responsibility to a Department other than the Home Office would not prevent cases involving deprived children from coming before the
Courts, since a Court Order will always be necessary before a child can be taken from his parents. And when a case has come before the Courts, the police and the probation service are inevitably brought in. Nevertheless, we recognise that a decision to assign responsibility to the Home Office is capable of misunderstanding and we therefore think that the announcement of the decision should be so framed as to rebut the suggestion that deprived children are being handed over to the police and should stress the following points:

(a) The transfer of responsibility to the Home Office will be made the occasion for the creation of a new and enlarged Children’s Branch devoted primarily to the task of seeing that a suitable home background is provided for all deprived children.

(b) Delinquent children for whom it is necessary to provide substitute homes will be treated as an incidental section of the larger class of deprived children.

(c) Arrangements will be made for a regular system of consultation between the Home Office and the Ministries of Education and Health on the services to be provided for the education and health of deprived children and for the supervision of these services.

Central Responsibility in Scotland

10. We were informed that the Secretary of State for Scotland was inclined to think that central responsibility for deprived children in Scotland should be assigned to the Scottish Education Department, but that before formulating a final view on this matter he wished to consider the decision of the Cabinet with regard to England and Wales. The fact that the Scottish Education, Health and Home Departments are all under the Secretary of State and housed in the same building in Edinburgh distinguishes the Scottish position from that in England and Wales: but the same reasons which have led us to propose the assignment of responsibility to the Home Office in England and Wales dispose us to favour the assignment of responsibility in Scotland to the Scottish Home Department.

Local Arrangements in England and Wales

11. There is general agreement with the recommendation in the Curtis Report that locally the county and county borough councils should be responsible for the care of deprived children. As regards the arrangements for discharging this responsibility, the Report recommended that the councils should act through an ad hoc children’s committees which should contain members experienced in the work of the public assistance, public health and education committees, but should not be in any way representative of or subordinate to these committees. The late Minister of Education, as part of her proposals for dealing with deprived children through the education service, proposed to us that instead of an independent children’s committee there should be a special children’s sub-committee of the education committee with representatives of the maternity and child welfare committee, while the Parliamentary Secretary to the Ministry of Health suggested that the work should be done by a sub-committee appointed jointly by the maternity and child welfare and educational committees. Our own view is that in most areas the right solution will be to have an ad hoc children’s committee at least for a period of three years. We have come to this conclusion for very much the same reasons as have led us to propose that central responsibility should be assigned to the Home Office. The local authority, as the Curtis and Clyde Committees both emphasise have a general parental responsibility towards the homeless children in their care; and we agree with the committees in thinking that this can best be discharged by a body other than one whose main concern is with the specialist services provided by the local authorities for all the children in its area. The appointment of a special committee should give a stimulus to the work of improving the local arrangements for those aspects of the care of deprived children which go beyond the normal province of the usual local authority committees. At the same time we think that it would be right to allow for exceptional arrangements in particular areas. We accordingly recommend that each council should be required to draw up and submit to the Home Secretary a scheme setting out the proposed arrangements for local administration, and that it should be understood that, save in exceptional circumstances, the scheme should provide for the discharge of the council’s functions relating to deprived children through an ad hoc children’s committee for a period of at least three years.
12. The Curtis Report recommended that there should be in each area a full time executive children’s officer with the standing of an important administrative officer of the council and that in areas where the volume of work was not sufficient to justify the appointment of a full time officer of the requisite standing the councils should combine to set up a joint children’s board with a joint children’s officer. We endorse the recommendation that there should be in each area a children’s officer but we agree with the Home Secretary and the Minister of Health in thinking that in most of the instances where the appointment of a joint children’s officer would be desirable the preferable course will be simply to provide for a joint appointment in the appropriate schemes of local administration without also providing for a joint children’s board.

13. Before approving each scheme of local administration the Home Secretary would have to be satisfied that the local authority were not merely continuing the old system under a new name, but were making a fresh approach to the problem of caring for deprived children and were establishing an organisation which would be adequate to carry out the progressive policy envisaged by the Curtis Committee. He would also have to see that the schemes provide for proper co-ordination between the children’s committees and the public health and education committees.

Local Arrangements in Scotland

14. The Clyde Report recommended that locally responsibility should rest with the county councils and town councils of large burghs, and that functions at present exercised by the education authorities in relation to homeless children should be transferred to these councils. If at the centre administrative responsibility is assigned to the Scottish Home Department, this recommendation will doubtless be accepted. In that event, we feel that, as in England and Wales, the local authorities should be required to submit to the Secretary of State for Scotland schemes for the discharge of their functions; that, save in exceptional cases, these schemes should provide, for an initial period of three years, for the appointment of special children’s care committees; and that provision should be made for the appointment by the local authorities concerned, either individually or jointly, of children’s officers.

Legislation

15. The Legislative Programme for the 1946-47 Session makes no provision for legislation to implement the recommendations of the Curtis and Clyde Reports, and it seems clear that it would be impossible to find Parliamentary time for a Bill carrying out a comprehensive overhaul of the law relating to deprived children. The transfer of responsibility from other Ministers to the Home Secretary could be effected by order under the Ministers of the Crown (Transfer of Powers) Act, and in Scotland any transfer from one Department of the Secretary of State to another would be a domestic and administrative matter. The assignment of local responsibility to county councils and county borough councils in England and Wales does not involve legislation; but legislation would be required to concentrate local responsibility in the councils of counties and large burghs in Scotland.

Until legislation is passed giving the Home Secretary and the Secretary of State for Scotland power to require local authorities to submit to them schemes for the administration of their functions relating to deprived children, the Government may be criticised on the ground that the reorganisation of the arrangements for caring for deprived children is being delayed unduly. This criticism could be met if a short Bill covering these points and dealing with the question of local responsibility in Scotland were passed in the 1946-47 Session. But the 1946-47 Legislative Programme is already heavily overloaded and the passage of a short Bill on the lines indicated in the current Session would not avoid the need for further legislation in the 1947-48 Session, when some provision will have to be made for children now cared for under the Poor Law. This being so we think that the right course is to resist pressure for legislation in the 1946-47 Session. The order under the Ministers of the Crown (Transfer of Powers) Act transferring responsibility to the Home Secretary should be made as soon as possible, and the Home Secretary and the Secretary of State for Scotland should at once take up the task of preparing a comprehensive Bill for introduction during the 1947-48 Session and of carrying out such preliminary work towards the reorganisation of the arrangements for caring for deprived children (e.g., consultations with local authorities) as can be undertaken before legislation is passed.
Summary

16. We recommend:

(1) that central responsibility for the care of deprived children in England and Wales should be concentrated in the Home Office;

(2) that local responsibility in England and Wales should lie with the county or county borough council and that the arrangements for the discharge of their functions relating to deprived children should be laid down in a scheme submitted by the local council to the Home Secretary for approval. Unless in exceptional circumstances the scheme should provide for the discharge of the functions for at least three years through an ad hoc children’s committee. The scheme should also provide for the appointment of a children’s officer of suitable standing by each council, or, where appropriate, by two or more councils of adjacent areas. Normally schemes should not provide for the establishment of joint children’s boards;

(3) that unless there are arguments of which we are not aware which justify the Government in taking a different line in Scotland, central responsibility in that country should be concentrated in the Scottish Home Department and local responsibility in the councils of counties and large burghs, provision being made, as in England, for administrative schemes and the appointment of children’s officers;

(4) that an order under the Ministers of the Crown (Transfer of Powers) Act transferring responsibility to the Home Secretary should be made as soon as possible and that the Home Secretary and the Secretary of State for Scotland should at once take up the preparation of legislation for introduction in the 1947-48 Session, and should meanwhile carry out such preliminary work towards the reorganisation of the schemes for the care of deprived children as can be undertaken before legislation is passed.

(5) that an announcement of the Government’s intentions should be made in the House of Commons by the Prime Minister as soon as Parliament reassembles. We understand that the Prime Minister has indicated to Mr. Wilson Harris, M.P., that he will give him an opportunity of putting down a Question on the matter and we attach (at Annex II) a suggested Question and Answer.

A. G.

Gwydyr House, S.W. 1.
12th March, 1947.

ANNEX I

PARAGRAPH 434 OF THE CURTIS REPORT

We do not accept the view urged by some of our witnesses that a single department should be responsible for every aspect of the life of the deprived child. The principle of defining the functions of Government Departments by the groups of people they look after rather than by the nature of the work they do seems to us wrong; in this case we think it would also be administratively clumsy. We feel, too, that to consign these children for all purposes to the care of a single Ministry would be to emphasise what we wish to minimise—the extent to which they are marked off from other children. We think that they should come within the purview of the Ministry of Education for education in the same way as children living with their parents, and that they should be subject to the health supervision of the Ministry of Health in the same way as the normal child is subject to it, and that, if physically or mentally handicapped, they should be treated as other children under these handicaps are treated by the responsible department—e.g., the Ministry of Education or the Board of Control. If they are delinquent in the sense of requiring penal treatment, the department responsible for such treatment (the Home Office) must prescribe the treatment for them. The missing element in the lives of these children is the home background, and we consider that all the children in whose lives that has ceased to exist or ceased to count should be brought under the supervision of a single
Which department is a question which must be settled on another level, and it does not seem to us to be so important as the achievement of unification. The duty no doubt impinges on the functions on the one side of the Ministry of Health as the department responsible for the bodily welfare of children, and on the other side of the Ministry of Education which is the department responsible for children's mental training and to an increasing extent for domiciliary provision for those pupils needing it; whereas the Home Office has already developed to a considerable extent the study of the substitute home. We would only urge that, whichever department undertakes the work, it should have a Children's Branch making a special study of child welfare on the side of the home, without specialist bias on any side, and an inspectorate able to judge whether the conditions for the child's total welfare as a human being exist in a particular case. The responsible Minister might be well advised to appoint an Advisory Council to keep him in touch with developments in outside expert opinion on the subject of child care.

ANNEX II

Mr. Wilson Harris: To ask the Prime Minister whether a decision has yet been reached on the administrative arrangements for caring for children deprived of a normal home life.

Proposed Reply: The Government accept the recommendations of the Curtis and Clyde Committees that the task of providing a home background for children deprived of a normal home life should be brought under the supervision of a single central Department. They have decided that, for England and Wales, this central jurisdiction should be concentrated in the Home Office. In view of its special experience in this field and the general part which it plays in the protection and welfare of young people the Home Office is the central Department best fitted to assume this responsibility. A new and enlarged Children's Branch will be created in the Home Office with an expanded inspectorate organised on a regional basis. This Branch will devote itself primarily to the domiciliary welfare of homeless children in general, and, though it will also deal with delinquent children for whom it is necessary to provide substitute homes, it will be concerned only incidentally with delinquency. A Standing Advisory Committee widely representative of the many interests involved and including representatives of the Ministry of Education, the Ministry of Health and the Ministry of Labour will be appointed to assist the Home Office in its administration. In Scotland, my Rt. Hon. Friend is already the responsible Minister for all aspects of child care; but he proposes to assign to the Scottish Home Department functions broadly similar to those which will be given to the Children's Branch of the Home Office and to appoint a Scottish Standing Advisory Committee.

The Government also accept the recommendations of the Curtis and Clyde Committees that county councils and county borough councils in England and Wales and county councils and town councils of large burghs in Scotland should be the local authorities responsible for the welfare of all children deprived of a normal life. The arrangements for the discharge of this function in each area should be defined in a scheme drawn up by the local authority and approved by the Secretary of State and it is proposed that, unless there are exceptional reasons to the contrary, the local authority should, at least for a period of three years, exercise their responsibility through a children's committee on the lines suggested in the Curtis and Clyde Reports. It is also intended that the schemes should make provision for the appointment by each local authority of a children's officer who would be in general charge of the work of providing a home background for homeless children.

In so far as any transfer of statutory functions to the Home Secretary appears to be desirable, the necessary steps will be taken under the Ministers of the Crown (Transfer of Powers) Act, and the Home Secretary and the Secretary of State for Scotland will then take up the tasks of preparing the necessary legislation to implement those recommendations of the Curtis and Clyde Committees which require changes in the law and of carrying out such preliminary work towards the reorganisation of the arrangements for caring for deprived children as can be undertaken before the passage of legislation.