

Re R (Adoption: Disclosure)

[1999] 2 FLR 1123

14/05/1999

Barristers

Robin Barda

Court

Family Division

Facts

The local authority care plan proposed that four of the seven children of the family should, in the long term, be placed in adoption if that could be achieved. The guardian, while fully approving the making of a care order, was throughout very strongly opposed to any adoption proposal within the care plan, having regard to certain unusual features of the case. The authority did not inform the panel of the guardian's views. The question arose whether the Adoption Agencies Regulations 1983 imposed an obligation on the local authority, acting as an adoption agency, to disclose to its adoption panel the views of the guardian.

Held

Held - the regulations required the adoption agency to give the panel a written report containing 'any information relevant', and such information must include the views of other professionals who had been involved in considering the future of the children. Therefore an adoption agency should state the views of the guardian ad litem, if then known, within its written report to the panel. Further, if the guardian had not by then formulated any final views, the panel should be informed of this negative fact as part of the relevant information. The panel was entitled to request further information from the adoption agency, such as the views of the guardian as and when formulated, under reg 10(3) of the 1983 regulations, and reg 9(4) obliged the adoption agency to comply with such a request so far as was reasonably practicable. However, the guardian's report could not be disclosed to the panel without prior authority of the court, and if the panel wished to see the guardian's report, then it would have to request that the local authority supply it, and the local authority, if it considered that the report should be disclosed, would then have to apply for leave to disclose. In most cases this could be achieved by a paper application. If such disclosure was to take place the report would then be subjected to such anonymity as was appropriate. The adoption panel did not have to allow the guardian to attend the panel or make oral submissions.

Permission

Reproduced with kind permission from Justis 