

Brent London Borough Council v (1) SK (2) HK (AKA HL) (A Child) (2007)

(2007) 2 FLR 914 : (2008) BLGR 37; [2007] EWHC 1250 (Fam)

23/05/2007

Barristers

Alistair G Perkins

Court

Family Division

Summary

A local authority was permitted to disclose to another local authority and a care home that a care worker looking after vulnerable adults had been found by the court to have carried out an assault on her child, as there was a real risk of harm to vulnerable adults if disclosure was not ordered.

Facts

The applicant local authority applied for an order to enable it to disclose findings of fact relating to the respondent mother (M) to M's employer or to the relevant local authority. The local authority had applied for a care order in respect of M's daughter (D) after a school had reported marks on D's face and body. At a fact-finding hearing the judge held that M had assaulted D causing bruises to her left eye, three linear marks and a bruise on her shoulder, and that M had forged a letter from an alleged friend admitting the assaults. The order was granted and D was taken into foster care. M was employed by a care home where she worked with vulnerable elderly residents. The local authority submitted that it was obliged to ensure that the relevant information about M was passed on in order for the relevant local authority and employer to discharge their statutory duties under the Care Standards Act 2000.

Held

HELD: There were a number of factors that had to be weighed in determining whether the local authority should be permitted to disclose to another local authority that a care worker looking after vulnerable adults had been found to have assaulted her child. The main factors were the impact of disclosure on D's welfare; the consequences for the family if disclosure was made; the risk of publicity for the family and any child; the importance of encouraging frankness in children's cases and the need for confidentiality; the gravity of the conduct and the extent of any risk to the public if there were no disclosure; any cogent evidence of a pressing need for disclosure; the interest of other bodies in receiving the information; and the public interest in disclosure. For the purposes of that balancing exercise, the vulnerability and need for protection of elderly persons was broadly equated with that of children. If a mother could seriously harm her child without explanation, other children and vulnerable adults might be at risk from her and were entitled to be protected. In the instant case there was a very serious assault on a child in M's sole protection. The impact of that conduct might be met with a favourable risk assessment. That was a

consideration for the bodies charged under the 2000 Act to determine. It was not, however, a matter the court could speculate about. There was a real and potent risk to vulnerable adults if disclosure was not ordered. There was a clear and pressing need for disclosure and there was a high interest in other bodies receiving the information. Those bodies were under a statutory duty to disclose information placing a vulnerable adult at risk and they required disclosure for that duty to be discharged. There was also a public interest in disclosure. Despite the potential disadvantages for the family and M's private rights under the European Convention on Human Rights 1950 Art.8, there should be disclosure. The need for public safety outweighed M's rights to respect for her privacy.

Application granted

Permission

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