

# Westminster City Council v (1) RA & (2) B (3) S (By their Children's Guardian) (2005)

**(2005) 2 FLR 1309 : [2005] EWHC 970 (Fam); Times, June 6, 2005**

26/05/2005

## **Barristers**

Alistair G Perkins

## **Court**

Family Division

## **Summary**

The key point of the Children Act 1989 Guidance and Regulations, Volume 1 (1991) para.3.10 was that families should be able to participate in the decision-making process and needed to be kept informed of decisions, the reasons behind them and their consequences. Accordingly, where a local authority had kept a mother informed of its plans in respect of her children and was justified in considering that her attitude was one of acceptance, the failure to involve her in a multidisciplinary case conference prior to applying for an interim care order was not procedurally unfair.

## **Facts**

The applicant local authority applied for interim care orders in respect of the respondent children (C) of the first respondent mother (M). C had medical problems requiring hospital treatment and the local authority was concerned that M would be unable to cope with their health and general care requirements on their discharge from hospital. A social worker had a number of meetings with M, making it clear that the local authority would be applying to the court for an interim care order to share parental responsibility for C. Following M's objection to C being placed in foster care, the local authority revised its proposal, deciding that C would be placed with M while a parenting assessment was carried out. M expressed agreement with the proposal when subsequently given opportunities to express her views about the local authority's plans, and continued to do so at a multi-disciplinary meeting the day after the instant application was lodged. M submitted that (1) the local authority's application was ultra vires and breached her rights under the European Convention on Human Rights 1950 because the local authority had failed, prior to the issue of its care proceedings, to involve M in a multi-disciplinary case conference to consider an agreed care plan; (2) alternatively, there was insufficient evidence to show that there were reasonable grounds for believing that the threshold criteria set out in the Children Act 1989 s.31 were met in respect of C.

## **Held**

HELD: (1) The procedural points raised by M were unmeritorious on the facts and misconceived in law.

Although The Children Act 1989 Guidance and Regulations, Volume 1 (1991) para.3.10 plainly anticipated that a multidisciplinary multi-agency case conference would be held prior to proceedings, the key point was that families should be able to participate in the decision-making process and needed to be kept informed of decisions, the reasons behind them and their consequences. Further, every child care case fell to be considered in the context of the particular situation faced by the local authority and the circumstances immediately surrounding the necessity to make decisions in respect of the child. The local authority was justified in considering that M's attitude was one of acceptance of their proposals. Although a multidisciplinary meeting of the kind referred to in para. 3.10 of the Guidance was only held the day after the issue of the proceedings, M had expressed her acceptance of the local authority's plans shortly before the issue of proceedings and had made no objection at the multidisciplinary meeting. There was no procedural unfairness prior to the care proceedings to support the allegation of a breach of M's rights under Art.8 of the Convention, nor any irregularity in the conduct of the care proceedings. The instant case was not, nor should it have been treated as, a case involving any ultra vires exercise by the local authority of its powers and duties under the Act. (2) The threshold criteria set out in s.31 of the Act had been met in respect of C. It was clear that unless an interim care order was made enabling C to be discharged into M's care under a close regime of monitoring and support, M's ability to look after them would be seriously in question. Due to the general uncertainty surrounding the position of M and her family and the possibility of a medical emergency befalling the children, it was necessary to provide the local authority with the ability to take decisions on the basis of shared parental responsibility. Accordingly, the local authority's intervention and the order sought were both appropriate and proportionate.

## Permission

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