

Re V : Re L (Minors) (Sexual Abuse: Disclosure) (1998)

(1999) 1 WLR 299 : (1999) 1 FLR 267 : Times, October 9, 1998

08/10/1998

Barristers

David Bedingfield

Court

Civil Division

Summary

Disclosure of information about findings of sexual abuse in Children Act cases should only be made where there was a pressing need. As the law stood, it was inappropriate to direct disclosure of information about such findings unless the application came within the broad principles set out in Re C (A Minor) (Care Proceedings : Disclosure) (1997) 2 FLR 725. * Leave to appeal to the House of Lords refused.

Facts

In two unrelated appeals with similar points of law the issue was the disclosure of information by the court to those unconnected with the family proceedings in which the information became available. In each case, the local authority sought leave to provide information, in one case to another local authority and in the other to the area youth football league, about findings of sexual impropriety made by the judge against the appellant in proceedings under s.31 Children Act 1989. In Re L, the father Mr L was 36 and had five children and one step-child. In 1995 he was charged with the attempted rape of the step daughter and indecent assault on the other five children. In August 1996 he was acquitted of all charges. In later care proceedings in respect of one of the children the judge found that Mr L had sexually abused three children in his care. The judge found that the threshold criteria under s.31 were met and that Mr L posed a significant risk to the three youngest children. Mr L was given leave during the proceedings to write down his address. He had moved to a new area and at the end of the judgment the local authority asked the judge to give leave for the address and the substance of findings of sexual abuse to be disclosed to the local authority to whose area Mr L had moved. The local authority wished to pass on the judge's conclusion that Mr L posed a significant threat to the children of single female adults with whom he might cohabit, but not to children generally. The judge directed that the address be disclosed to the local authority but not to the police nor to any other authority without further leave. Mr L appealed. In Re V, the parents of four sons separated in 1987 and divorced in 1996. The children stayed with the mother and whilst two were adults the others were aged 15 and ('D') 14 at trial. In 1994, the mother formed a relationship with a Mr W. He was a keen footballer and coached junior football teams where the boys played. Allegations were made about Mr W's inappropriate behaviour with young boys including D. At the end of a 17-day care hearing the judge made findings of sexual impropriety in relation to an 8-year-old

boy and of an unhealthy and unusual relationship with D. The judge held that Mr W would pose a risk of significant harm to both D and his brother unless protective measures were kept in place. The local authority asked for permission for a letter to be sent to the local football club and the youth football league concerned. The judge approved a particularly worded letter and Mr W appealed.

Held

HELD: (1) It had been the practice for many years for information in family proceedings to be regarded as confidential and not to be disclosed without the leave of the court. Further, s.12(1) Administration of Justice Act 1960 provided that proceedings relating to the inherent jurisdiction of the High Court in respect of minors, brought under the Children Act 1989 or otherwise wholly or mainly relating to the upbringing of a minor were protected from publication of information. (2) Moreover, s.98(2) of the 1989 Act protected witnesses giving evidence in court from self-incrimination in the interests of frankness. (3) The Family Proceedings Rules 1991 r.4.23 provided for confidentiality of documents in the proceedings which were not to be disclosed other than to the parties and other specified persons without the leave of the judge or the district judge. Transcripts were protected by r.10.15 and the address of a party might be protected under r.10.21. (4) The Court of Appeal in *Re C (A Minor) (Care Proceedings : Disclosure)* (1997) 2 FLR 725 set out guidelines to which a court should have regard in exercising its discretion whether to order disclosure. (5) From the guidelines in the case law it was clear that the court in family proceedings would be likely to disclose relevant information to the police or to a defendant in criminal proceedings unless there were powerful reasons to the contrary. Disclosure had also, in appropriate cases, been given to the General Medical Council in relation to a medical practitioner and to the probation services in relation to one of its employees. (6) There would be cases in which one local authority would have the duty to pass on information about abuse and abusers to other local authorities – for example where children at risk moved from one area to another. The court did not in passing judgment seek to inhibit the necessary exchange of relevant information between agencies. The duty under s.17(1) and s.47 of the 1989 Act was clear. (7) However, local authorities were creatures of statute and neither s.17 nor s.47 placed upon the local authority the general duty to inform other areas of the movement of those found guilty of sexual abuse in care or other family proceedings. Neither section supported disclosure in the cases in issue. (8) In the circumstances of the cases, both judges had erred in their approach to the exercise of their discretion. The balance came down firmly in favour of non-disclosure in each case. Disclosure should only be made where there was a pressing need. As the law stood, it was inappropriate to direct disclosure of information about findings of abuse in Children Act cases unless the application came within the broad principles set out in *Re C*. In neither case was there a pressing need, nor could the *Re C* principles be said to apply. Accordingly disclosure was inappropriate.

Appeals allowed.

Permission

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