

A London Borough Council v K & others

[2009] EWHC 850

12/04/2010

Barristers

Alex Verdan KC
Sally Bradley

Court

High Court

Practice Areas

Public Children Law

Summary

Care Proceedings: Fact finding hearing to determine the truth and extent of mother's allegations of serious sexual abuse against the children's father and other named men. Baker J found the allegations of sexual abuse to be untrue and identified a number of matters about care proceedings and the wider system of child protection from which important lessons can be drawn.

Facts

The subject children were two girls. The mother made serious allegations of sexual abuse against the father and other named men. Her allegations were that the children had said they had been abused in horrific circumstances by a paedophile ring. The police investigation concluded with no charges being brought against the father or anyone else. The mother raised the allegations in the dispute about contact already proceeding before the county court. The local authority issued care proceedings and the matter was transferred to the Family Division. Baker J heard a 6 week fact finding hearing.

Held

Baker J held:

1. A clear pattern emerged from much of the evidence about the allegations. A minor incident or fact became steadily blown up out of all proportion, partly as a result of things the children had said but also crucially in the mother's mind. There was considerable evidence that the mother's own attitude to the allegations and sexual matters generally was seriously distorted. This clear pattern of maladjusted thinking on the part of the mother provided an important clue when deciding what had happened in this case. The mother kept questioning where the children's extreme knowledge came from. The more the mother's evidence continued, the more it was clear their knowledge came from the mother herself.
2. The allegations of sexual abuse were untrue. The mother led the children to make false allegations through a process of coaching and questioning because she had, and still has, a distorted and

unreasonable belief that he had abused them. In consequence, the children have suffered very significant emotional harm through being: led to say, and perhaps believe, a wholly false story about their father; introduced to a wholly inappropriate knowledge of all sorts of sexual matters; subjected to intrusive physical examination; police questioning and over 18 months of involvement with professionals; and of course separated from their loving father for a period of nearly 2 years.

3. The hearing has identified a number of matters about care proceedings and the wider system of child protection from which important lessons can be drawn – see para 156 – 163 for full details:

i. Management of cases: The family courts generally, and this court in particular, need to work even harder to improve the management of cases. They will have to be stricter about time limits for evidence and exert greater rigour in managing proceedings. As a matter of practice, in a case of complexity, the trial judge should be allocated at an early stage. It is unhelpful if the case is moved to a different judge at a relatively late stage, since that increases the amount of judicial reading time required and leads to difficulties if the ultimate trial judge disagrees with procedural decisions made earlier by one his brethren.

ii. Instruction of experts: There is a need for very great care in the instruction of experts. There is a particular danger when the terms and basis of an assessment evolve over time. In those circumstances, the lead solicitor needs to be even more vigilant than usual that there is full agreement about the instructions of an expert on the part of the parties and a full understanding of what is required on the part of the expert.

iii. Police disclosure: The deficiencies in the police evidence in this case were alarming. It became apparent during the hearing that a large amount of material had not been disclosed. Better procedures need to be put in place to ensure this does not happen again. As a start one named officer should always be identified to deal with disclosure, and there should always be a meeting with that officer and the lead solicitor, usually the Local Authority's solicitor, to ensure that disclosure has taken place as ordered. Baker J suspected that a more fundamental change is required. He recorded this is not the first time that this court had been struck by what appeared to be a cavalier attitude towards disclosure on the part of the police. This is a matter which should be reviewed urgently by the Family Justice Council.

iv. Private GPs and child protection: There may be a risk that private GPs with whom children are registered may not have the necessary experience or knowledge about child protection.

v. Clinical examination: There are several key lessons to emerge from the case about clinical examination of a pre-pubertal child who it is suspected has been sexually abused. For these details see paragraph 161(1)-(7).

vi. Veracity assessments: This case has demonstrated that veracity or validity assessments have a limited role to play in family proceedings.

vii. Fact-findings: This case has demonstrated the invaluable role played by the forensic process in determining the truth.

Permission

Family Law Week 