

K (Children) [2012]

[2012] 2 FLR 745; EWHC Case No. LS09C05566

14/12/2011

Barristers

Jo Delahunty QC

Court

Family Division

Practice Areas

Public Children Law

Summary

Care proceedings concerning a family of five children, three of whom have serious complex disabilities. Care proceedings withdrawn and the three children made wards of court pending review.

Facts

These care proceedings concerned a family of five children, three of whom had serious complex disabilities. The local authority had issued proceedings in order to break the deadlock that had arisen between the local authority and the children's parents as to the services that were being made to the family.

In the course of the judgment, Hedley J repeatedly remarks that this is a unique case that merited a unique judicial approach. In the course of the final hearing, Hedley J visited the residential unit where two of the children were living, the school attended by the three disabled children, and he met with the children and their parents informally. Through extensive out of court negotiations, the parents and the local authority were also able to draw up a number of agreements as to their future relationship and the role that the local authority would play in the children's lives. During the course of the hearing, the judge had also adopted an approach whereby he made his preliminary views known and suggested possible solutions to a greater extent than he would have done were he hearing an 'arm's length trial'.

By the end of the proceedings, there was no longer any dispute as to where any of the children would live. It remained in issue whether the youngest child, who was disabled, would continue to live at home in the future or would reside at H Unit where his two older (disabled) siblings were living. This was not something that could be decided by the Court at this stage. Hedley J was cautiously optimistic that relations between the local authority and the parents would be better in future.

There remained a dispute in relation to the education of one of the children. The parents wanted him to leave F school and receive his education at the H Unit. The view of the local authority was that it was in his best interests to continue attending F in order to gain a more varied daily experience. Whilst the

judge did not formally adjudicate on this issue, he expressed the view that the benefits of F considerably outweighed the parents' concerns at the present time.

The local authority was seeking the court's leave to withdraw their applications for care orders. The judge was required to decide how to approach this issue. There had been no threshold hearing and the judge was clearly of the view that to have such a hearing would be unhelpful. However, he was also able to observe that the complex needs of the three disabled children meant that they were at risk of significant harm, although this was inherent to their conditions and was not connected to the quality of care provided by the parents. However, it was important that there was some model of good enough parenting in respect of children whose disabilities put them at risk of significant harm and whose needs are beyond the capacity of any parent to meet without assistance.

The judge therefore spent some time attempting to formulate a definition of what 'good enough' parenting would mean in this context. Whilst this did not mean necessarily always accepting the advice of professionals, such a parent would need to acknowledge the proper role of professionals involved in their children's care.

Held

Hedley J then went on to consider the local authority's application to withdraw their applications for care orders from a welfare perspective. He concluded that there was clearly no need for the local authority to share parental responsibility for these children, but because of the troubled relationship with the local authority in the past, it was right to make them wards of court pending a review at the end of 2012.

Permission

Family Law Week 