

Kent County Council (Applicant) v (1) A Mother (2) F (3) X, Y, Z (Children) (Respondents) & IR (Intervener) (2011)

[2011] EWHC 402 (Fam)

03/03/2011

Barristers

Jo Delahunty KC

Court

Family Division

Practice Areas

Public Children Law

Summary

Care proceedings in a case where a man had sexually abused the children of a mother with learning disabilities revealed a local authority's failings in working with parents with learning disabilities; in sharing information about families; in keeping records, particularly in relation to its computer system; and in its duty of disclosure. The court gave guidance to local authorities and other agencies in respect of with whom the case had highlighted concerns.

Facts

The court made findings of fact in care proceedings in respect of three children (X).

The children's mother (M) had learning disabilities. The family had a long involvement with the applicant local authority's social services. The family met a middle-aged man (D) who was using an alias. X, and M's older daughter (W), regularly stayed overnight with him. W lived with D for a period; social services and the police had approved that following a police national computer check on D which revealed nothing. No fostering assessment was made. Allegations of sexual assault were made against D and his true identity, including a record for sexual offences against children, was revealed. D later admitted abusing X and other children. The local authority applied for a care order.

Held

(1) D had sexually abused X. M had refused to accept the fact of the abuse despite being confronted with evidence of it. She had regularly allowed her children to stay overnight with D; a reasonable parent would never have allowed that. She had struggled to provide physical care for her children, and had a chronic inability to control them. Accordingly, the threshold criteria under the Children Act 1989 s.31 had been satisfied. There would have to be comprehensive assessments of X's needs and M's capacity to care for them (see paras 125-126 of judgment). (2) The local authority had failed to comply with

Government guidance on working with parents with learning disabilities and urgently needed to review its practice. All social workers and family support workers had to be trained to recognise and deal with parents with learning disabilities (paras 134-135). The local authority had serially failed to take steps which might have protected the family. It had had information that the children had been staying with a single middle-aged man of whom M knew nothing, but so poor had been the communication within the authority that that information had not been adequately shared or acted on. It urgently had to review the way information was shared (paras 136-138). In not making a fostering assessment when W lived with D, the local authority had failed to fulfil its obligations. Had an assessment been undertaken, no reasonable social worker could have concluded that it was in W's interests to be fostered by D. If the local authority had fulfilled its duties, D's identity might have been revealed earlier (paras 144-145). The local authority's procedures for making and keeping records about the family had been seriously deficient. Its computer system was unfit for purpose. There had been no social work chronology on file until shortly before the hearing. The purpose of such documents was to enable any social worker accessing the file to identify the issues. Had one been on file, some of the errors would likely have been avoided. The problem with computerised local authority records extended beyond the local authority. The difficulties made the exercise of the power of the children's guardian to inspect files under s.42 much harder (paras 148-152). The local authority's disclosure of documents had been haphazard. Only the local authority's lawyers were professionally equipped to understand the issues before the court and the processes of disclosure. They had to know where information was stored and the type and volume of information involved. A plan then had to be made to enable the local authority to comply with its obligations, R (A Child) (Care: Disclosure: Nature of Proceedings), Re [2002] 1 F.L.R. 755 applied (paras 153-158). (3) As well as the local authority's inadequacies, the case highlighted concerns about other agencies. Had the court had a stronger grasp of the details earlier on, time could have been saved. More time needed to be made available to judges for pre-reading before directions hearings in complex cases. It was surprising that people whose records were checked in police national computer checks were not routinely asked to show identification. Had that been done, police and social services suspicions about D might have been aroused. Further, the conduct of M's police interview had been seriously compromised by the failure to arrange for an appropriate adult to be present. Clearer guidance might have to be made available to officers interviewing witnesses. In cases involving a long history of social involvement recorded in a mass of documents, it was absolutely essential that counsel for the local authority prepared a chronology with page references so the court could fully understand the background. D had obtained a new identity partly by acquiring a new national insurance number. His Member of Parliament had assisted him in that. Thought had to be given as to whether greater caution should be exercised before such help was given (paras 161-165).

Judgment accordingly

Permission

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