

C (A Child) (Schedule 2, Paragraph 19, Children Act 1989)

[2019] EWCA Civ 1714

21/10/2019

Barristers

Rex Howling KC

Court

Family Law

Practice Areas

Public Children Law

The court considered the meaning of “other suitable person” for the purposes of the Children Act 1989 Sch.2 para.19(4). It concluded that where a child in the care of the local authority did not consent to his placement outside England and Wales, the court was not permitted to approve a placement outside England and Wales other than with a natural person. Consequently, a local authority could not “arrange for, or assist in arranging for, any child in their care”, who did not consent, to live in a residential home outside England and Wales.

A local authority appealed against a court’s refusal to approve its arrangements for a child (C) to live in a residential home in Scotland.

C was a young teenager. In 2018, he was made subject to a care order and was placed in a residential home in England. In March 2019, he was moved to a residential home in Scotland, but the local authority omitted to get the prior approval of the court, as required by the Children Act 1989 Sch.2 para.19(1). It subsequently made an application for the court’s approval, but the judge refused on the basis that C did not consent to the placement. In the instant appeal, the local authority relied on Sch.2 para.19(4) which provided that the court could still give its approval, even though the child did not consent, if it “is satisfied that the child does not have sufficient understanding to give or withhold his consent” and “if the child is to live in the country concerned with a parent, guardian, special guardian, or other suitable person”.

The issues were whether (i) the words “other suitable person” enabled the placement of a child subject to a care order made by a court in England and Wales in a residential home in Scotland; and (ii) the judge’s approach to the issue of “sufficient understanding” was flawed.

To read the full judgment, please click [here](#).