

CHILD LAW UPDATE

Recent case law focused on the following areas:

- **Enforcement of contact orders**
- **Privacy in children's proceedings**
- **Evidence**
- **Paternity and surrogacy**
- **S91(14)**
- **Special Guardianship**

Enforcement of contact orders

1. *Re P (A Child) (2007) 1 FLR 1820*

- a. Court made a suspended committal order in the mother's absence.
- b. Mother had failed to produce C for contact on 4 successive occasions, contrary to an earlier order with a penal notice attached.
- c. Father applied for the mother's committal, and the mother failed to attend court for the hearing. Mother appealed.
- d. Court of Appeal upheld the decision:
- e. It is appropriate in some cases to proceed with a committal in the absence of the respondent, dependent on the factual context of the case.
- f. Judge in this matter had extensive knowledge of the case, and clearly had in mind the importance of the mother's compliance with the court order.
- g. Although it would have been desirable for the Judge to have given reasons for not granting an adjournment, it was clear why he had reached the decision, so no injustice had been done.

2. *Re A (A Child) [2007] EWCA Civ 899*

- a. C lived with the mother, but she repeatedly frustrated direct and telephone contact with the father.
- b. During the frequent court proceedings, the judge warned the mother that C could be removed from her care if she continued the disruption.
- c. Mother persisted, and the father applied for a residence order.
- d. There was evidence that C would find a change in residence traumatic, and his expressed wish was to remain with the mother.
- e. A psychologist and a social worker both recommended a change in residence, and the former diagnosed the mother as suffering from a serious personality disorder.

- f. Judge accepted the experts' evidence and made an order changing residence. Mother appealed.
- g. Court of Appeal upheld the decision on the basis that the judge had weighed the long-term interests of the child against the short-term trauma.

3. *In the matter of C (A Child) [2007] EWCA Civ 866*

- a. The parents separated when C was a year old, and contact operated for a further year until the mother refused to make C available.
- b. Father brought the matter before the court, and various orders were made (some with penal notices attached).
- c. Mother failed to cooperate on at least 11 occasions, and sabotaged contact by making negative comments to C about the father.
- d. DJ found the mother to be implacably hostile to contact during an interim hearing.
- e. The judge decided not to commit the mother to prison as she had recently had a baby with her new partner, and instead ordered a change in residence, effective from the following day. Mother appealed.
- f. Court of Appeal upheld the decision as it was clear that the judge had had regard to the welfare checklist and had balanced the likely harm of a change in residence with the longer-term damage that C would suffer if denied contact with her father.
- g. The option of making of no order was one of abdication, which the courts made all too frequently.

Residence

4. *Re H (Children) [2007] EWCA Civ 529*

- a. The parents had 2 children, and residence and contact proceedings followed the parents' separation. The court found the mother to be adequate, despite the father's allegations to the contrary.
- b. C were placed with the mother, with unsupervised contact to the father. This ran smoothly for 4 years.
- c. One of the C developed an abscess for which the mother obtained medical treatment and medication, and the father insisted on taking the C for contact 2 days later.
- d. During that contact, the C's health worsened, and the father took her to hospital. The father took this as evidence that the mother was neglectful, and retained the children.
- e. The mother sought an order for the C's return, maintaining that she would continue to support contact as per the previous order. The father made numerous allegations about the mother's ability to care for the C.
- f. The judge held that it was in the C's best interests to reside with the father in the short term, and made an interim residence order.
- g. The mother appealed, and the Court of Appeal held that the judge had applied the wrong principles and arrived at the wrong conclusion.
- h. Residence should only be changed where there is a compelling reason to do so on welfare grounds, as per ***K (Children) (Procedure: Family Proceedings Rules) (2005) 1 FLR 764***.
- i. Where children are wrongfully retained after contact, the standard procedure is to return them to their primary carer.
- j. The judge had failed to give weight to the fact that the C had been with the mother since birth and that there were finding that she was a capable carer.
- k. The C were ordered to return to the mother immediately.

Privacy in children's proceedings

5. *Re Brandon Webster (A Child) sub nom Norfolk County Council v Nicola Webster & 5 others (2007) 1 FLR 1146*

- a. Care orders had been made in respect of the parents' 3 older children
- b. Parents did not accept findings of physical abuse against those children and claimed to be victims of a miscarriage of justice.
- c. Parents fled to Ireland before C was born due to concern that he would be removed.
- d. Care proceedings were commenced when the parents returned to England.
- e. The court had imposed stringent reporting restrictions under s97(2) CA 1989 (the matter had attracted considerable media attention).
- f. The parents, the BBC and a newspaper publisher sought to relax the order to allow the media to attend the hearings. The Guardian opposed this.
- g. The parents argued that the restrictions were a disproportionate interference with their rights under Art. 10 ECHR.
- h. Guardian argued that the C's rights under Art.8 ECHR should prevail, and that it was in the public interest to preserve the belief that evidence given in children's proceedings would remain confidential.
- i. Held by Munby J that the restrictions were too wide.
- j. Fundamental principle that justice had to be administered in public, and the principle of open justice applied equally to the family system (although some children cases clearly required confidentiality).
- k. S97(4) had to be construed to allow the prohibition under s97(2) to be lifted where the Convention required it, following ***Clayton v Clayton (2006) EWCA Civ 878***.
- l. In deciding on the scope of the restrictions, the court has to undertake a balance between publicity and privacy.

- m. FPC Rules 1991, r4.16(7) made privacy the default provision, and did not indicate a heavy presumption in favour of privacy.
- n. The following factors meant that any greater restriction than that proposed by the applicants would be a disproportionate interference under Art.10 ECHR:
 - (a) The case was alleged to involve a miscarriage of justice
 - (b) The parents themselves wanted the publicity
 - (c) The case had already been heavily publicised
 - (d) There was a need for the full facts to emerge in a way that would command public confidence.

6. *Clayton v Clayton (2007) 1 FLR 11*

- a. The father had been sentenced to a period of imprisonment for abducting C and taking her to Portugal. The matter received much publicity and a documentary was made about it.
- b. On his release, the mother became aware that the father wanted to return to Portugal with C to make a video diary.
- c. Although the CA 1989 proceedings had been adjourned, the mother obtained an injunction preventing the father from publishing anything about C until she turned 18.
- d. The CA proceedings were subsequently agreed and disposed of, but the judge continued the injunction on the grounds that C's rights under Art.8 ECHR took precedence over the father's rights under Art.10 ECHR, and that this approach was (broadly) in line with s97 CA.
- e. The father argued that the judge had misconstrued s97, as the prohibition on publication only lasted until the conclusion of the proceedings (which here had been settled), and alternatively that
- f. Art. 3 ECHR required s97 be interpreted to require that the restrictions be lifted in all cases where the Art.10 rights outweighed the Art.8 rights (and that in this matter the C had no Art. 8 rights engaged).

- g. The Court of Appeal held that, while s97 ceased to have effect once the CA proceedings had ended, there was nothing to restrict a judge making an injunction or order prohibiting the child's identification, although a balancing exercise between the competing Convention rights had to be conducted when making a long-term injunction.
- h. It was incorrect to assume that identifying a child as having been involved in proceedings would harm their welfare or Art.8 rights.
- i. The terms of the injunction were too wide, and prevented the father from referring to his case as one which had been resolved amicably, but the involvement of C in being taken abroad and featuring in the film involved her welfare.
- j. The injunction was discharged, and a PSO made preventing the father from visiting Portugal with C or involving her in the publication of information relating to the abduction until further notice.

**7. *Re. William Ward (A Child) sub nom BBC v Cafcass Legal & 8 others*
[2007] EWCH 616 Fam**

- a. C had suffered a fractured tibia when 3 months old and care proceedings were brought.
- b. The parents were found not to have injured the child and the matter was dismissed.
- c. The parents made a video diary with the intention that the BBC would make a documentary of their experiences.
- d. The parents and BBC sought publication of the judgment and permission to disclosure of video footage relating to the proceedings.
- e. Although none of the other parties objected to the publication of the judgment or disclosure of the video, certain professionals involved sought anonymity.

- f. Munby J held that there was no reason why the judgment could not be published, and permission was also granted for disclosure of the video, subject to anonymisation.
- g. The BBC had proposed a limited form of order, but Munby J did not consider the safeguards proposed were sufficient to protect the identities, and so made a *contra mundum* injunction, preventing the world at large from identifying the parties
- h. The principled approach to applications to publish judgments was for the court not to release any judgment, even if anonymised, until those affected had been provided with the opportunity to seek an order protecting their anonymity and any such applications had been adjudicated on.
- i. Any applications for publication should not be decided unless and until there had been strict compliance with the HR Act 1998 s12 (2), PD (Fam Div: Applications for Reporting Restriction Orders) (2005) 2 FLR and Practice Note (Official Solicitor: Deputy Direction of Legal Services: CAFCASS: Applications for Reporting Restriction Orders) (2005) 2 FLR 111.

Evidence

8. *Re S (A Child) [2007] EWCA Civ 371*

- a. C had been assessed as possible suffering from a serious psychotic illness.
- b. A psychiatrist attempted to persuade the mother to agree to an in-patient assessment, but the mother refused.
- c. A 2nd psychiatrist concluded that the assessment could be conducted with the C as an out-patient.
- d. The mother refused to agree to either course, and the LA issued proceedings.
- e. Before the trial, the 2 psychiatrists discussed the matter and the 2nd agreed that an in-patient assessment was, in fact, required. The 2nd psychiatrist wanted time to try and persuade the mother before any orders were made.
- f. The judge decided to act urgently, and made the orders without considering the view of the 2nd psychiatrist.
- g. The Court of Appeal held that the fact that the 2nd psychiatrist's views were not considered was a strong argument for the interim care order not to be made
- h. The LA could not defend the judge's decision, and the order was set aside.

9. *Re W (A Child) (2007) 2 FLR 98*

- a. C was taken into care following an anonymous telephone call that the mother could not cope.
- b. On examination by 2 paediatricians, it was concluded that C had been sexually abused.

- c. The LA's case in the care proceedings was that C had suffered sexual abuse by her father, and that the mother and father had smacked her.
- d. A psychologist gave an adverse report on the mother, and the LA pursued a plan for adoption.
- e. In light of the finding of abuse and the adverse report, the mother consented to a full care order and did not oppose the freeing application.
- f. The mother became aware during the proceedings that the father had been convicted of sexual offences with children and terminated their relationship as a consequence.
- g. The father faced criminal proceedings, and 2 experts concluded (on reviewing the medical reports) that there was no clear suspicion of abuse.
- h. The mother appealed against the original orders, and a re-hearing was held.
- i. The judge at the re-hearing found threshold to be made out, and made a final care order and placement order to the LA.
- j. The mother appealed on the basis that
 - (a) She could not have failed to protect from sexual abuse if no such abuse was proved;
 - (b) That smacking C did not constitute significant harm;
 - (c) That the judge accepted the evidence of the psychologist despite rejecting material aspects of her evidence; and
- k. The judge had failed to take into account the improvements the mother had made in her parenting capacity.
- l. The Court of Appeal held that none of the judge's findings justified a conclusion that the C had suffered harm as a result of the mother's failure to protect her from sexual abuse; that in the context of the case, the father's smacking of the child was not sufficient to satisfy threshold; even if that conclusion was wrong, the mother had ended her relationship with the father; the judge had accepted the psychologist's evidence without giving reasons for doing so or

subjecting it to a sufficiently critical analysis; the judge had not considered properly the mother's improvements.

- m. An interim care order was substituted for the full one, and a rehearing was ordered.

10. *LM (A Child by her Guardian) v Medway Council, RM, YM [2007]*

EWCA Civ 9

- a. Mother alleged the father had sexually abused the C, aged 10; and in subsequent interviews, C alleged sexual and physical abuse by her father.
- b. The father denied the allegations, and the child was placed in foster care with the mother's consent.
- c. The mother then retracted the allegations and maintained that she had coached C to make them.
- d. The LA did not accept the mother's retraction and commenced care proceedings.
- e. The mother applied to the judge for a witness summons, compelling the C to give evidence via video link; and the father supported the application. The LA and Guardian were opposed to it.
- f. The judge granted the summons, and the Guardian and LA appealed on the basis that the judge had failed to carry out any balancing exercise before exercising his discretion, that he had failed to give proper weight to the potential harm to C; that the evidence would be of limited use; and that it was an error of law to take as a starting point that it is appropriate for a child in care proceedings to give oral evidence if it can be done without damage or oppression when the correct starting point is that a child would only give evidence in exceptional circumstances.
- g. The Court of Appeal agreed that the judge had failed in the exercise of his discretion, and the court had to exercise its discretions afresh.

- h. The correct starting point is that a child giving evidence in care proceedings is undesirable, and there is a need to balance the potential harm to the child against the need for the evidence.
- i. In the circumstances, the case was unusual and although the evidence may be of limited value, the judge's view that he needed the evidence was justified. The appeal was dismissed.

11. *Re H (Children) [2006] EWCA 1975*

- a. The mother's partner was arrested for numerous sexual offences against children, care proceedings were instigated and the C were placed in foster care.
- b. The LA alleged that the mother had failed to protect the C from her partner's pornographic activities.
- c. 10 days were set aside in the care proceedings for fact finding, to include evidence from 2 teenage children which would go to whether the partner was a sexually predatory male.
- d. The police had objected to the teenagers giving evidence twice due to their vulnerability.
- e. The judge adjourned the care proceedings until after the criminal trial and refused the partner permission to cross examine the teenagers in the care proceedings.
- f. The Court of Appeal held that the judge had to be given deference for what was a case management decision, and the decision to adjourn was not plainly wrong.
- g. If the young witnesses were to only give evidence once, it was sensible for that to be within the criminal proceedings, as there would be transcripts of that evidence and it could be done by video link, so also available in the care proceedings.
- h. The judge should have dealt with the issue of the adjournment first, as there would have been no need to decide the partner's application to cross-examine until the care proceedings happened,

and a decision could be taken in light of the evidence given in the criminal trial.

Paternity and surrogacy

12. *Re P (A Child) LTL 25/7/07*

- a. The C was born as a result of a surrogacy arrangement between the biological mother and father.
- b. When C was 18 months old, an order was made transferring the residence of C from M to F and his wife.
- c. The judge found that the mother had deliberately embarked on a half-deception due to her compulsive desire to bear another child, and had merely sought to obtain insemination by surrogacy.
- d. The judge had the benefit of medical evidence and the views of the guardian.
- e. The mother appealed, relying on the attachment C had with her, the likelihood of proper contact of the child was placed with the father, and the capacity of the mother and her husband to parent.
- f. The appeal was dismissed as the judge had clearly weighed the circumstances carefully, it could be demonstrated that he had the relevant factors in mind when making the decision, and it was impossible to say that they had been overplayed or underestimated.

13. *Re F (Children) [2007] EWCA Civ 873*

- a. A DNA test proved F to be the father of 8 year old twins. The C had an elder sibling, and recognised the sibling's father as their natural father.
- b. The mother and her partners were united that the C's understanding of their paternity should not be disturbed.
- c. The court ordered that a declaration of their paternity be made.
- d. The mother appealed on the basis that the court had no jurisdiction to make such an order, and that such an order would be unenforceable in any event.
- e. The Court of Appeal held that there was nothing obstructing a judge from making such an order, at the family courts have always made

decisions relating to the welfare of children, and that when and whether children were told of their origins were decisions relating to their welfare.

- f. That a parent might not be prepared to carry out such an order did not prevent it being carried out by a professional, and highlighted the need for professional intervention in such cases.

14. *Birmingham CC v S, R, A (A Child by her Guardian) (2007) 1 FLR 1223*

- a. The parents' of C had been in a relationship for 2 years, but the father still lived at home, and his parents knew nothing about C.
- b. Due to the mother's previous parenting difficulties and injuries sustained by her other children, care proceedings were commenced.
- c. The father's parents were devout Muslims, and although the father had at one point told C's guardian that his mother might be prepared to care for the child, by the time of the proceedings, he stated that his family would reject the child, he would be forced to leave the home and it would cause difficulties within the community.
- d. The father sought an order that the parties to the proceedings should not inform the paternal grandparents of C's existence.
- e. The court had to balance the father's Art 8 rights against those of C.
- f. On the facts of the case, there was no sound basis to conclude that the grandparents would reject C.
- g. Adoption was a last resort, and to deprive a significant member of the wider family of the information that a child existed who might otherwise be adopted could only be justified on compelling and cogent grounds, of which there were none in this matter.
- h. The order sought by the father should not be made.

15. In *The Matter of C (Children)* (2007) 1 FLR 1642

- a. The parents had been married for 7 years before separation, and the father's contact with the C ceased following his decision to live as a woman.
- b. F started contact proceedings, which were delayed while he underwent gender re-assignment.
- c. A report was commissioned from a medical expert, which explained the complex issues arising from the father's gender re-assignment and the professional support and assistance required by the mother's reaction.
- d. The expert recommended that NYAS be asked for assistance.
- e. The judge determined that the mother did not require the recommended assistance, and instead imposed a 20 month moratorium, allowing the father to send cards only.
- f. The father appealed on the grounds that the judge had erred in dismissing the doctor's recommendations, and that it was in the C's best interests to know of the gender re-assignment sooner rather than later, in case they found out for themselves and suffered irreparable damage.
- g. The Court of Appeal held that the critical issue was identified by the doctor that the C must understand the truth about their father, and the judge was wrong to reject the doctor's recommendations.
- h. The order denied the C the crucial assistance they required, and the appeal was allowed.

S91(4)

16. *Re J (A Child) [2007] EWCA Civ 906*

- a. Following the parents' separation in 1993, protracted litigation arose in relation to C, born in 1992.
- b. C suffered with a severe autistic disorder and profound learning difficulties.
- c. There were several hearings over the next 6 years in relation to contact, residence, PSOs and breaches of orders.
- d. In 1999, the mother could no longer cope, and C was taken into care.
- e. A care order was made, and C was eventually placed with his father under that order.
- f. The mother had fortnightly unsupervised contact, and applied to the court for a defined contact order, which was refused.
- g. The mother then sought to apply for permission out of time to appeal the care order, for a discharge of the care order and for an increase in contact.
- h. The applications were refused, and the LA applied for and were granted an order under s91(14).
- i. The Court of Appeal upheld the making of the order, despite there being no other reported case where a s91(14) was made in respect of a child in care.
- j. Although it was unusual to make the order until the child was 18, it was justified in the C's interests.
- k. The court could lift the prohibition if an application with merit was made.

17. S v S [2006] EWCA Civ 1617

- a. The father had been granted permission to withdraw his applications for contact and residence.
- b. The mother and guardian made an oral application for a s91(14) to protect the welfare of the children.
- c. The court granted the order, and attached conditions that the father had to have sought treatment and provide a psychological or psychiatric report before making any application for leave to apply.
- d. The father appealed on the basis that he had been insufficient notice of the application, on the facts the order should not have been made, and the order was for too long a duration.
- e. The order was upheld by the Court of Appeal: although no formal notice of the application was given, the father had informally been told of it.
- f. The father had not attended the hearing, had not engaged with the guardian, and had not read the guardian's report.
- g. Given the length of the proceedings and the very great number of previous applications, and the settled nature of the C with the mother, the judge was entitled to make the order.
- h. However, it was not permissible for the judge to attach conditions to the s91(14), as they effectively amounted to findings of fact when no evidence had been heard. The condition was removed.
- i. It would be permissible for a judge to tell a party of their chances of success being slim if certain matters were not addressed, without making them formal conditions of an order.

Special Guardianship

18. Re EN (A Child) [2007] EWCA Civ 264

- a. C was placed with his grandmother after suffering non-accidental injury at the hands of his mother.
- b. The grandmother applied for a special guardianship order, but was not supported in her application by the independent social worker or C's guardian.
- c. A psychologist reported that an adoptive placement outside the family was preferable for C, but that the grandmother could care for C if she moved away and broke all ties with the mother.
- d. The LA eventually supported the grandmother's application.
- e. The judge concluded that the benefits to C of a placement outside the natural family outweighed the possible advantages, and held that there was a risk of harm due to issues within the family.
- f. The judge dismissed the grandmother's application, invited the LA to reconsider its care plan and eventually made a care order and a placement order.
- g. The judge refused to make a contact order.
- h. The Court of Appeal held that it was for the judge to evaluate the various factors, and could not be faulted for his analysis.
- i. The judge had been presented with compelling evidence that the future risks of harm were very real and unacceptably high.
- j. The judge had given proper reasons for concluding that the grandmother was not certain to make the necessary physical and emotional break and safeguard C in the future.
- k. The appeals were dismissed.
- l. Further, the judge had not failed to take account of the differences between the CA 1989 and Adoption and Children Act 2002 welfare checklists, and had properly evaluated the lifelong effects of the placement order on C.

19. *Re S (A Child) (2007) 1 FLR 819*

- a. C was placed with D as her foster mother on a voluntary basis due to concerns about domestic violence and drug use by the parents and an injury suffered by C.
- b. After an unsuccessful wider family placement, C was placed back with D, and assessments concluded that neither parent could care for her.
- c. D put herself forward as an adoptive parent for C.
- d. The judge decided that a special guardianship order was more appropriate, and appointed her as such, as well as making a s91(14) order in respect of the parents.
- e. The Court of Appeal found that, as the guardian had not made a clear recommendation, it was sufficient for the judge to have explained her reasons for the making of the special guardianship order.
- f. Although the judge had not addressed the welfare checklist specifically, it was clear that she had address the important issues in the case, and her failure to reference the checklist did not vitiate her decision.
- g. A reference to the checklist and an analysis of the issues by reference to it was desirable.
- h. The judge did not need to address the parents' lack of agreement to adoption because the question of dispensation of parental consent was only relevant once the court was satisfied that adoption would safeguard the C's welfare throughout her childhood. The court was not so satisfied in this case.
- i. The judge had been entitled to conclude that a special guardianship order was in the C's best interests.
- j. Under s14A(11) CA 1989, the court could not make a special guardianship order without a report from the LA dealing with the matters in s14A(8).

- k. The judge should have exercised her powers under s14A(9) and asked the LA to conduct the relevant investigation and prepare a report.
- l. The CA invited the LA to produce a report under s14A(8) and for the judge to reconsider her report after reading the report.
- m. The CA gave guidance on special guardianship orders.

20. Re AJ (A Child) (2007) 1 FLR 507

- a. C was placed with his aunt and uncle (U) following difficulties with domestic violence between the parents.
- b. C was initially placed with U in a long-term foster placement under a care order.
- c. Following difficulties with the parents adhering to contact, it was reduced to 6 times a year.
- d. The LA recommended that an adoption order would be preferable to long-term foster care, and U applied for an adoption order.
- e. The judge found the parents to have unreasonably withheld their consent to an adoption order, and that a special guardianship order was not a viable alternative to an adoption order.
- f. The parents submitted that they could not be withholding consent unreasonably if they were prepared for C to remain with U under a special guardianship order.
- g. The Court of Appeal held that special guardianship orders had not replaced adoption orders where children were placed within their wider families.
- h. Each case has to be decided on what was in the best interests of the particular child in the particular case.
- i. The judge's findings and assessments of the parties were determinative of outcome, and the assurance of security C and U required could not be provided by a special guardianship order.
- j. The judge could not be faulted on his analysis of the law in relation to the parental consent.

- k. An adoption order in this matter did not unduly distort the family dynamics.

21. *Re MJ (A Child) (2007) 1 FLR 691*

- a. C was placed with S, the mother's half-sister, due to the mother problems with drug and alcohol dependency. It was anticipated under the care order that C would return to the mother's care once the mother had undergone rehabilitation and detoxification programmes.
- b. The mother initially did well, but relapsed; and S applied for an adoption order.
- c. The mother supported this course to begin with, but changed her position and sought for a special guardianship order to S instead.
- d. The recorder concluded that no lesser order than an adoption order would be appropriate, dispensed with the mother's consent and decided against contact to the mother in the short term.
- e. The mother argued that the recorder had not given sufficient weight to the option of a special guardianship order, and had given too much weight to her own assessment of the mother.
- f. Although the Court of Appeal was sympathetic to the mother, it found it was impossible to say that the recorder's exercise of discretion was flawed, as she had reached a carefully reasoned discretionary decision.
- g. The recorder had been entitled to reach the decision that adoption was in C's best interests and that a special guardianship order would be insufficient.
- h. Appeal dismissed.

22. *Re R (A Child) sub nom Birmingham CC v LR (by the Official Solicitor), PNG, AK, KW, MRR (A Child by her Guardian) (2007) 1 FLR 564*

- a. Threshold criteria under s31 of the CA 1989 had been satisfied, and the grandparents sought for the C to live with them under a special guardianship order.
- b. The court ordered the LA to undertake a report under s14A(8) of the grandparents, despite the grandparents having made no application for leave to apply for a special guardianship order. The grandparents undertook to issue their application within 7 days.
- c. The LA argued that the court was not entitled to order a report under s14A(8) as the necessary leave had not been granted.
- d. The Court of Appeal held that s14A(8) was not triggered where a person requiring leave to make an application, but had not obtained it, gave notice of their intention to make an application.
- e. A judge should not compel a LA to perform its obligations unless s14A(6)(b) applied.
- f. There was no provision in the CA 1989 or the Special Guardianship Regulations 2005 that permitted the court to restrict the scope of a report under s14A(8).
- g. The court order was plainly wrong.