

Re M (A Child) [2015]

[2015] EWFC 71

04/08/2015

Barristers

John Tughan KC
Rebecca Foulkes

Court

Family Court

Practice Areas

Public Children Law

Summary

Judgment by Munby P on the entitlement to legal aid funding of a parent who is seeking a review of findings of fact in public law children proceedings.

Facts

In July 2012 the child M, then aged 6 months, suffered a fractured arm. A subsequent fact-finding hearing placed both the mother and father in the pool of possible perpetrators with the other failing to protect the child. M was placed under a special guardianship order and a supervision order with a relative.

In July 2014 the mother applied to discharge these orders. The reality of her application was that she stated, due to the failure to identify her needs as a vulnerable adult, the original fact-finding had been in breach of her Article 6 rights and should be re-opened. The trial judge allowed this application. The Legal Aid Agency refused the mother legal aid funding for these proceedings saying that such funding was not available for applications to discharge a supervision order/ SGO.

Held

The mother applied for either Her Majesty's Courts and Tribunal Service or the local authority to pay for legal costs.

The President did not rule on those applications (it was accepted HMCTS can no longer meet such costs). He stated that the mother's application had now re-opened the threshold and welfare stages of the original care proceedings and that the court would proceed on the basis that it was those proceedings that were before it. The mother was entitled to legal aid for those proceedings. He made a declaration to that effect and 'trusted' that the LAA would swiftly grant the necessary funding.

Permission

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