

Re C (Family Assistance Order)

[1996] 1 FLR 424

10/07/1995

Court

Family Division

Facts

C was born in 1982. In 1992 he went to live with his aunt and uncle, following the separation of his parents. C consulted solicitors and eventually was given leave, amid some publicity, to make an application for a residence order. The residence order, in favour of his aunt and uncle, was made in March 1995. The court also made a family assistance order directed to the applicant local authority, intended in particular to seek to repair the damaged relationship between C and his mother, whom C blamed for the break-up of the family. The applicant local authority appeared before the court by counsel to explain that it did not have the resources to carry out the direction of the court.

Held

Held – making no order on the application – the point taken by the local authority was that the resources available to it were finite, and that the allocation of those resources was a matter for the exercise of the authority's discretion. The authority had decided that it did not have the resources to implement the family assistance order and there was no reason to doubt that decision. Since the 1989 Act did not specifically provide any remedy where a local authority expressed itself to be unable to carry out the order, on the face of it there were no options open to the court save to direct an order to the director of social services endorsed with a penal notice, so that enforcement proceedings could ensue. That would be contrary to the interests of the child and the child care system as a whole, and was only mentioned to illustrate the starkness of the situation with which the court had been faced.

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