

L v London Borough of Bexley (1996)

(1996) 2 FLR 595

20/06/1996

Barristers

David Bedingfield

Court

Family Division

Summary

As to the proper conduct of care proceedings where care order will designate under s.31(8) of the Children Act 1989 a local authority other than the applicant because the child in question has moved to another area.

Facts

The applicant London Borough of Bexley applied for full care orders in respect of two boys in April 1995. By the time of the hearing the father had left the home and the mother had moved to the borough of Greenwich with the boys. A care plan was drawn up by the applicant, under which the boys would remain with their mother provided she did not allow the father back into the home, or allow any contact by him with the boys outside the supervised contact outlined in the plan. It was agreed at the hearing that there should be full care orders on the understanding that the care plan was to be implemented, and a statement of intent was drafted by the applicant to reinforce that plan. By virtue of s.31(8)(a) of the Children Act 1989, the Borough of Greenwich was the authority in whose care the children were to be placed; that authority had taken no part in the proceedings.

Held

HELD: (1) By virtue of s.34(11) of the 1989 Act, the court had to consider the arrangements of the authority in whose care the children were to be placed before it could make a care order. (2) It was intolerable to make a care order based on a plan and a statement of intent without first ensuring that that authority had the intention and resources to follow the plan. (3) Consideration should always be given in situations such as this, to the possibility of making the local authority in whose area the child has become resident a party to the proceedings or to that authority taking over the conduct of the proceedings. Such a course will not always be appropriate, but it must be considered. (4) It was essential that there was a much fuller and earlier liaison between the two authorities than had occurred in this case. The care plan must be specifically agreed between the two authorities and put forward as a joint document. In the event, a team manager from Greenwich attended court at the judge's invitation and signed the care plan for that authority as the one designated under s.31(8) of the Act. Care orders made accordingly.

Permission

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