

Re F (Child) sub nom F v Lambeth London Borough Council (2001)

(2002) 1 FLR 217

28/09/2001

Court

Family Division

Summary

When a local authority's social services department had gravely failed in its duty of care towards children in its care, judgments on the case had to be published to safeguard the public.

Facts

Application by parents, pursuant to s.34 Children Act 1989, for supervised contact with their children ('J' and 'K') who were in the care of the respondent local authority ('Lambeth'). In March 1998 quarterly contact, which had previously been day long unsupervised contact away from the children's home where the boys resided, was changed to supervised contact at the home. Both boys were statemented. They had been placed in the home on an emergency basis but had remained there for over four years. J would almost certainly require lifelong support. K may or may not have been able to function in adult life. K suffered from a disorganised attachment disorder. The parents had problems of their own. It was accepted that there was no prospect of the parents being able to care for the boys. There had been grave and continuing failures by Social Services. Lambeth argued against publication of the judgment for the following reasons: (i) the social work team had accepted the serious failings in past social work practice; (ii) the effect on social work morale and future recruitment of further public criticism; (iii) that limited dissemination of the judgement would enable lessons to be learned; and (iv) that the sad history of this case did not disclose a new problem or new principles which required publication.

Held

HELD: (1) Lambeth's dereliction of duty was illustrated by (i) the length of time that J and K had remained at their 'emergency placement'; (ii) the lack of a current care plan; (iii) the lack of a search for permanent placement. (2) For J contact was to be increased. The reduction of contact to once every three months was justifiable only in the context of an effective search for long-term placements. Unless K was placed with a permanent substitute family, contact with parents had to be significantly increased. (3) None of Lambeth's arguments' against publication were remotely persuasive. Where the judicial process revealed failings by the state as egregious and damaging as those committed by Lambeth in the present case, the argument for public disclosure became almost overwhelming. The only safeguard and guarantee for proper performance of their functions by public authorities was public awareness and the force of informed public opinion and an informed electorate. It was appropriate for this judgment to be published following a further hearing on 22 February 2001. (4) Following judgement in this case there were significant developments in the Court of Appeal, Re O (Supervision Order) (2001) EWCA Civ 16 and

Re W & B (Care Plan) (2001) EWCA Civ 757; the latter authority showed that the court was able to exercise appropriate judicial control over a local authority's implementation of its care plan.

Permission

Lawtel 