



# FAMILY JUSTICE BILL

## JOHN HEMMING MP'S BALLOT BILL

“When the child was recently asked what improvements he thinks could be made to the care system in which he spent his childhood, he replied:

**‘FOR THE IMPORTANT PEOPLE TO LISTEN TO US.’ ”**

**SO SAID MR JUSTICE PETER JACKSON IN A RECENT CASE INVOLVING CHILDREN WHOSE LIVES HAD BEEN DAMAGED BY THE CARE SYSTEM. HIS LORDSHIP ALSO SAID THIS IS NOT AN ISOLATED CASE.**

**MPs can show they will ‘listen’ on 26 October by being in Parliament to support the second reading of John Hemmings MP’s Family Justice Bill.**

But let us be clear. As the Minister says (below) there are many social workers and judges and lawyers doing a difficult job in often horrendous situations. We pay tribute to them.

*‘The work of many thousands of professionals has been incredibly dedicated but the child protection system has continued to fail for too many children’*

Minister for Education, Sarah Teather MP  
Hansard 13 June 2012, Col. 432

But they can get it wrong. Usually just because they are human: sometimes because of poor practice.

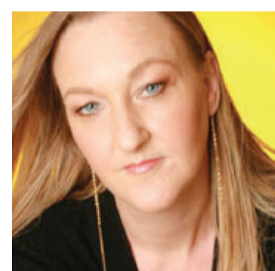
*‘There are (a tiny minority of) cases in which the procedures and decisions are questionable... this is particularly important when it comes to adoption proceedings and other forms of permanence where the consequences are far-reaching. I am conscious ... as to what further safeguards we might institute ... a sort of appeals mechanism’*

Children’s Minister Tim Loughton MP  
evidence to the Education Select Committee 12th June 2012 Q 793

The Family Justice Bill will help reduce those mistakes, help alleviate their effect, and help children and families.

**WE ASK ALL MPs TO BE IN PARLIAMENT ON FRIDAY 26 OCTOBER TO ENSURE THE FAMILY JUSTICE BILL GETS A SECOND READING. THANK YOU.**

**FOR HOW YOU CAN HELP PLEASE SEE PAGE 4.**



A Kendall House\* survivor asks:  
**... Are they listening yet?**

*‘I did talks in a University; one was to six trained social workers two of whom came from where I was in care. These two refused to take part AND got three of the other four social workers to not join in. They then went to the trainee social workers and informed them that I was lying about the abuse I suffered and TOLD them not to listen to me.’*

Teresa Cooper Author of *Trust No One/Pin Down*  
(www.no2abuse.com)

\* Kendall House was a children’s home where girls were drugged and raped.



Judge James Orrell ordered that three children should be taken from their parents without listening to them.

Family torn apart in 15-minute court case:

**Mail**Online

**Court of Appeal ‘aghast at handling of this case’ – parents denied a voice.**

### **A and S (Children) v Lancashire County Council (LCC)**

Mr Justice Jackson’s judgement of 21 June stated that two teenage brothers were taken into care as infants. ‘Havoc’ was created with their lives and they ‘suffered real lifelong damage’ and ‘irreparable harm’.

**But ‘the local authority’s actions did not come under independent scrutiny’ because ‘LCC’s reviewing system did nothing to correct this.’**

# 'WE MUST WEED OUT

So said Children's Minister Tim Loughton MP in evidence to the Justice Committee into Safeguarding Children. While acknowledging all the 'good practice' in the system, he said:

## 'I think we can do better'

Evidence to the Education Committee

The Family Justice Bill is about ending poor practice and doing a whole lot better.

### Transparency without ending anonymity

*'Family Courts sit in private to protect the anonymity of children. But 'there is a danger that justice in secret could allow injustice to children...'*

House of Commons Justice Committee July 2011 p 99, as the case below shows.

#### Yes indeed!...

*'The Principal Registry ordered a toddler be returned to his parents after he was removed from them when he was discovered to have 17 fractures ... (but) ... It was established that the baby was vitamin D and calcium deficient and had undiagnosed rickets'*

Goodman Ray Solicitors press release 9<sup>th</sup> May

*'The risk of injustice is further shown by a study of expert evidence (used in the Family Court): 'one fifth of (expert) psychologists were not deemed qualified... Two thirds of the reports reviewed were "poor" or "very poor"'*

Evaluating Expert Evidence: Prof Jane Ireland February 2012.

#### Families broken up because of incorrect evidence! To avoid this.....

*'We need greater transparency in the courts... I am an inveterate believer in (this)'*

Children's Minister Tim Loughton MP evidence to the House of Commons Justice Committee 26<sup>th</sup> April 2012 Q 332 and Q 334

*'We support efforts to make the Family Courts more transparent ... (but without) increasing the likelihood of identifying children'*

Evidence given to the Justice Committee by the NSPCC September 2010 Ev 129.

#### And, as the Government's Children's Czar says: "We need to understand more" about the mistakes - see box below.

**Exactly, that is why Clause 2 of the Bill will permit academic research into the Family Courts - with guarantees that any publication will protect anonymity.**

### Case conferences

#### Poor Practice

*'They had case conferences but didn't tell us. I found out after a Data Protection Act request, and asked what was going on. So they allowed me to attend (but not my husband) but I was not allowed to say anything or comment on the reports.'*

We have many such statements.

*'Only one in four mothers felt the case conference was a positive experience... parents felt they lacked information'*

Research into Case Conferences 2010 for London Safeguarding Children Group

#### Good Practice

Barnado's told the House of Commons Justice Committee (Q 85):

*'A better option (is) a requirement to have family group conferencing ... our experience of one (such) service ... was that (for) 27 families for whom care proceedings were considered **none of those children went into care**'.*

The Committee (at p 93) supported this, (noting that it could **save public money** by avoiding children going into care), as did the 2010 research quoted above.

**Clause 1 will achieve this by involving parents to keep families together.**

### Lack of information and 'intimidation'

*'We surveyed about 450 single parents ... over half told us they find the system dreadful and poor. About 73% find it very difficult to navigate.'*

Evidence given to House of Commons Justice Committee by Gingerbread 25<sup>th</sup> January 2011 Q 78

*'Non lawyers accessing family courts can find it confusing and frustrating'*

House of Commons Justice Committee July 2011 para 34

*'the common complaint (was) that the courts are daunting and intimidating places for families'*

Family Justice Review 2012 p 40.

*'professionals need to understand how intimidating it is (for parents) to be so "outnumbered"'*

Research into Case Conferences December 2010 for London Safeguarding Children Group

**Clauses 1 and 2 will rectify this by requiring that an explanation of procedure is given to people, and by allowing parties to the case to have observers present.**



*"I accept that the system and the courts sometimes get this wrong and we need to understand more about why that happens and how often."*

Martin Narey, Government Children's Czar

**Twitter conversation with Mr Ian Watson, 2 August 2012**

# NOT POOR PRACTICE'

to the House of Commons Education Committee's inquiry 'good practice' (which we do too) he concluded:

## 'a whole lot better'

Committee 12<sup>th</sup> June 2012 Q 867 and 868

After. As we explain below. For the exact drafting go to [www.familyjusticebill.info](http://www.familyjusticebill.info)

### Complaints by children in care

#### Poor Practice

Children in care can complain – to a body appointed by the body they are complaining about!

*'The two children in care 'suffered real lifelong damage'. But the local authority's actions **did not come under independent scrutiny**' – Mr Justice Jackson in the Lancashire case June 2012 (see p.1)*

The Leicestershire Inquiry in 1993 found that *'Early warnings of problems were ignored even from reliable sources.'*

Evening Standard 27<sup>th</sup> July 2010 reporting about Kendall House where girls were drugged and raped: **'She did report her injuries at the time, and a letter from the doctor who examined her says: "I enclose a copy of a swab taken from (name). It is likely she has been sexually abused." Nothing was done.'**

#### Good Advice

In evidence to the House of Commons Justice Committee Barnado's called for reviewing officers to have 'independence from the local authority'. (11<sup>th</sup> June 2011 Q 108).

'Complaints procedures should be independent' NSPCC website briefing.

**Clause 3 would protect children by requiring that the body receiving the complaints is independent of the authority being complained about.**

### Grandparents

#### The promises

*'A child's ongoing relationships with grandparents and wider family should be considered (in) arrangements for a child's future ... (we) support the recommendation that the importance of relationships children have with other family members should be emphasised.'*

Government Response to the Family Law Review 2012

*'Reform family law to provide greater access rights to grandparents when families break up. Promote custody rights for grandparents where children are taken into care. Grandparents should be one of the first ports of call when a child needs to be taken into care, but at the moment they are not... **We will change that...**'*

Conservative Older Person's General Election Manifesto 2010.

#### The reality

*'Only half of local authorities have a policy that families should be considered as first option before a child is fostered or taken into care.'*

Government Minister, David Willetts MP, Conservative Home website.



*'I am treated like a criminal not a grandparent.'*

*'I spent over seven years with my grandchildren 2/3*

*times a week. After they were taken into care over three years ago\* the court ruled that I can see them twice a year, for two hours, and supervised. I cannot write, phone or text. I can only send them birthday and Christmas cards.'*

\* we emphasize that this was in proceedings totally unrelated to the grandparents.

**Is this 'greater access' and 'the importance of relationships', Prime Minister?**

**The Bill will put Government promises into law. Clause 2 will allow grandparents and wider family to participate in court hearings regarding the future of children and have reasonable contact with them. Clause 4 will require courts to consider placing children with grandparents before making an adoption order.**

### Discrimination against children in care

*'I have on two occasions lost my job when my employers have come across my background/ upbringing despite having more professional experience & qualifications than my managers. We are viewed as mad, bad or sad. Even with a masters degree in Psychotherapy & 20 years experience, a PhD in Psychology, we are never qualified enough to be treated equally.'*

Care Leaver, July 2012

*'In 2009 I was the Chief Executive of the Children's Rights Alliance and submitted to the Equality Bill Committee that "it shall be an offence to discriminate against another on the grounds of their care status." It did not succeed. It must now!'*

Mike Lindsay Advisor to the Children's Rights Director for England

*'I lost my job and at the Employment Tribunal the barrister told them that "as a result of being ex-care I would have a residual propensity to fabricate".'*

Care Leaver, July 2012

**Clause 3 will ban discrimination against people in care and care-leavers.**

### Appealing local authority decisions

#### Poor Practice

How a council decided to remove a child:

*'A room filled with strangers talking about us. We weren't told what it was going to discuss; we weren't allowed to speak or comment or even see the reports they had; then at the end they decided to go to court to take our children.'*

We have many such stories.

#### Good Intent

As Children's Minister Tim Loughton agrees (see page 1) sometimes procedures and decisions are 'questionable' and:

*'this is particularly important when it comes to adoption proceedings and other forms of permanence where the consequences are far-reaching. I am conscious about further safeguards... **a sort of appeals procedure**'*

**Clause 1 will enable appeals to the council's scrutiny committee so that possibly hasty decisions and poor procedure can be reconsidered.**

# FORCED ADOPTION: 'WITHOUT PARENTAL CONSENT'

**F**orced adoption is when children are adopted without the consent of the birth parents. In emotive terms it is the state forcibly taking children from their parents.

This power has resulted in headlines in the national press about 'child-snatchers' and the one on page 1.

There are those who say that forced adoption should be scrapped.

But we are not going that far: we are simply saying that the *current safeguards* provided by law and public policy should be adhered to.

## THE LEGAL SAFEGUARDS

Under the Children and Adoption Act 2002 the courts can 'dispense with parental consent' to adoption to protect children where there is evidence that they may have been harmed or at risk.

But Parliament has laid down legal safeguards (in Section 1(4) of the 2002 Act) that '**must**' (that is the word in the Act) be adhered to before parental consent can be dispensed with. They include

- the child's wishes (where old enough) and needs, and the lifelong effect on the child of losing contact with his birth family,
- the harm that the child has suffered or might suffer,
- the relationship the child has with his relatives and the value to the child of it continuing,
- the ability of the relatives to provide a secure home for the child and the wishes of the relatives.

## What happens in practice? The secret way in which the will of Parliament is being ignored

These provisions laid down by Parliament are being ignored. Our difficulty in showing this, however, is the hearings are secret – and so are the judgements. We are looking at one now. It says that this judgment must not be shown to anyone. So the family that lost their children may be in contempt of court for even showing it to us.

Other people have received injunctions stopping them from disclosing information about their cases. Their children were taken 'without parental consent' in secret – and this must remain secret.

## People could go to jail just for giving us information about the forced adoption of their children!

So to prevent this we must be very careful. We have a judgement dated 4 October 2011 and another dated 12th July 2012: both are silent as to how the requirements of section 1(4) have been complied with. So is another from the North of England, and another from the West Country, and another from .....

All contain little or no mention of the matters required by Parliament in section 1(4) of the 2002 Act.

And this seems to be the norm, as noted by Julie Haines a 'McKenzie Friend'<sup>1</sup> from Justice For Families

*'I have assisted hundreds of cases. The judges usually just say ".... and I dispense with the parental consent to adoption because the child's welfare needs it". They do not explain how or even whether they have considered the points required by Section 1 of the Act.'*

The Bill would rectify this by requiring judges to explain how they have considered the matters that Section 1(4) says they should consider.

## THE PUBLIC POLICY SAFEGUARDS

Public Policy is government policy with an added factor that it is an accepted way of doing things.

Coalition Government policy is stated in its response to the Review of Family Law published in February:

*'a child's ongoing relationships with their grandparents and wider family members should be considered when making arrangements for a child's future ... (we) support the recommendation that the importance of relationships children have with other family members should be emphasised.'*



*'Grandparents should be one of the first ports of call when a child needs to be taken into care'*

Conservative Older People  
General Election Manifesto 2010



*'We will ensure that grandparents and other family members are always given first consideration for adoption or fostering'*

Labour Party Election Manifesto p 6.4

So there is a generally accepted public policy that grandparents and wider family members should be considered before forced adoption.

## But this is not happening.

**Our amendment to the 2002 Act will give effect to public policy and promises by requiring that before adoption and other 'care orders' are considered wider families are viewed as the 'first port of call' and only rejected if there are validated reasons.**

**We appeal to Mr Cameron, Mr Clegg and Mr Milliband keep to their promises and support it.**

## AN APPEAL FOR YOUR HELP

**To get this Bill into law we need YOUR help. Can you please do as many of the following as possible?**

- **Write to your MP** (House of Commons, London SW1A 0AA) asking him/her to support this Bill by being in the House of Commons on **Friday 26th October** to vote for it.
- **Email your MP** with a similar request. Go to [writetothem.com](http://writetothem.com)
- **Ask your friends and other contacts to do the same.**
- **Distribute copies of a small A4 flyer** as widely as possible. Please let us know how many you would like.

Contact us on [jff@courtnage.co.uk](mailto:jff@courtnage.co.uk)

**Thank you**

<sup>1</sup> A 'Mackenzie Friend' is a non-lawyer who assists people in court who do not have a lawyer