

# PARLIAMENTARY BRIEFING PAPER INTERDISCIPLINARY ALLIANCE FOR CHILDREN

## CHILDREN, SCHOOLS AND FAMILIES BILL: PART 2 - FAMILY COURTS

The media have been permitted to attend family court hearings since April 2009. However Part 2 of the Children, Schools and Families Bill now proposes to relax the rules on what can be published by the media in addition to observing family hearings.

The Bill sets out two stages to implement these measures. Stage 1 of the Bill would allow some reporting of family proceedings – including placement proceedings where a child is to be adopted. In *practice*, Stage 1 may result in little difference to the current position. The same is not true of Stage 2. If passed in its current form, *enabling clauses* would permit the Lord Chancellor to move to Stage 2 and to relax the rules on reporting ‘sensitive personal information’<sup>1</sup>. The effect of this could be that ‘sensitive personal information’ protected in Stage 1 of the Bill, could then be published - unless a court specifically imposed restrictions.

The Interdisciplinary Alliance for Children is in favour of making the work of family courts more transparent to the wider public but is deeply concerned that any relaxation of the rules on publishing ‘sensitive personal information’ will increase yet further the likelihood of identification of children and families in press reporting. There are alternative methods of improving transparency which would not subject already highly vulnerable children to a range of further risks.

Furthermore, the *enabling clauses* would allow government to introduce measures which would move the family jurisdiction in England further than any other similar jurisdiction so far as media access and reporting is concerned. Significant change would be introduced without proper public consultation, or an independent external review and adequate parliamentary scrutiny of whether it would be in the best interests of children and their families.

The Alliance is also seriously concerned that the proposals - particularly in relation to future changes under Stage 2 - have been tabled without adequate consultation and apparently without:

- (a) an independent evaluation of the impact on children, courts and reporting following the changes introduced in April 2009;
- (b) an evaluation of the impact of the proposed further changes on children and young people with regard to their safety, well-being and respect for their privacy;
- (c) a thorough assessment of the impact on children with regard to their ability and willingness to make disclosures to professionals about parental ill-treatment, and their wishes and feelings. Clinicians who assess children and parents are required to inform them who may be in court to hear evidence and to read the expert’s report. Interim findings [Brophy, forthcoming]<sup>2</sup> indicate that children and young people are unwilling to talk openly with clinicians and to trust them once made aware that a reporter might be in court to hear what they have said in a clinical setting.
- (d) Consideration as to the consequences of judicial decision making about children’s care and safety, where this is based on limited/incomplete evidence from children, and
- (e) A detailed consideration of the delay and costs implications of a case-by-case assessment of any necessary reporting restrictions at a time when the government is seeking to reduce delay and costs in planning children’s futures.

Those concerns are heightened by the experience of some children following the changes introduced in April 2009, for example:

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<sup>1</sup> The Bill defines ‘sensitive personal information’ in Schedule 3 under four categories (information given by a relevant child, information relating to a medical, psychological or psychiatric condition, information relating to a medical, psychological or psychiatric examination, information relating to health care, treatment or therapy.

<sup>2</sup> The Views of children and Young People regarding media access to family courts in the context of Article 12 of the UNCRC, (forthcoming); Office of the Commissioner for Children, England.

- A young person subject to care proceedings and her family were identified following information published in local and national newspapers. This caused enormous distress to the family; the young person was devastated by the detail of her mother's mental health problems, her own childhood problems and schooling issues. This teenager said had she known about press coverage she would not have taken her complaint forward. Details about her childhood – however much she herself is able to move on – will remain available on the Internet forever.
- A young person refused to repeat allegations of sexual abuse when informed of the possibility of press in court.
- Talking to children where there are serious allegations of sexual abuse and parental drug use, or disputes between two parents, is fraught with difficulties. Clinicians are concerned that when media access is explained to children they will withhold vital information, and as one child psychiatrist argued, "...younger children will not understand, and may not realise that saying less might be safer"

Pilots providing anonymised judgments, which have recently started, are a welcome step in opening family courts in a careful, child centred manner but it is far too early to move from these, to the provisions of Stage 2 of the Bill. The Ministry of Justice has yet to evaluate the pilots. Lack of resources delayed their start, may also limit their effectiveness and any real likelihood that they will be rolled out nationally.

#### **In conclusion:**

- **These issues are too important to be the subject of rushed and ill-thought-out provisions.**
- **The possible changes envisaged in Stage 2 should be the result of proper consultation, sensible dialogue and adequate Parliamentary scrutiny.**
- **We would urge making no further changes in the absence of an independent evaluation of media access to courts post April 2009, and of the provision on Stage 1 of the Bill.**
- **We also urge the Joint Committee on Human Rights to scrutinise Part 2 of the Bill.**

The Association of Lawyers for Children (ALC)  
 Professional Assoc. for Family Court Advisers and Independent Social Work Practitioners (NAGALRO)  
 Family Law Bar Association (FLBA)  
 National Society for the Prevention of Cruelty to Children (NSPCC)  
 National Children's Bureau (NCB)  
 The Children's Society  
 The Together Trust  
 The Aire Centre – Human Rights, Family Law and European Convention on Human Rights  
 British Association of Adoption and Fostering (BAAF)  
 British Association of Social Workers (BASW)  
 Adoption UK  
 Children's Rights Alliance for England (CRAE)  
 Office of the Commissioner for Children – England (11 MILLION)  
 The Law Society – Children and Family Sub-Committees  
 National Youth Advocacy Service (NYAS)  
 The Catholic Children's Society (Westminster)  
 Great Ormond Street Hospital for Children, NHS Trust  
 Resolution - First for Family Law (formerly, Solicitors' Family Law Association)  
 Royal College of Paediatrics and Child Health  
 Voice (formerly, Voice for the Child in Care)  
 Women's Aid Federation – England  
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