

**JOINT PRESS RELEASE  
FROM  
THE INTERDISCIPLINARY ALLIANCE FOR CHILDREN**

**The Forthcoming Improving Schools and Safeguarding Children Bill:**

**Amendment of s.41 of the Children Act 1989  
&  
Extension of the rights of the media in family proceedings**

The organisations listed below have come together as an Interdisciplinary Alliance for Children to express their deep concern about Government plans to use the forthcoming Schools and Safeguarding Bill as a vehicle to amend key legislation in relation to the protection of children, without proper consultation with key stakeholders in the family justice system within the terms of the Cabinet Code on Consultation. Nor has there been an impact assessment of the dangers for and feelings of the children concerned.

**Section 41, Children Act 1989 – The need for a named Children’s Guardian to provide protection and continuity for children.**

The Alliance calls on the Government to reconsider its plans to amend s.41 of the Children Act 1989. At present Section 41 places a responsibility on the court to appoint a named guardian to represent children and their interests in care and related proceedings. The amendment would mean that the court appoints CAFCASS the organisation, rather than a named practitioner, to carry out the role and functions of the Children’s Guardian.

The independent assessment of the child’s needs and circumstances carried out by the guardian working in ‘tandem’ with the child’s solicitor, provides the court with the continuity of oversight of the case, unbiased information and independent representation of the child which the court requires in order to make the best possible decision about the welfare of each child.

Children in care proceedings need the continuity of one guardian in whom they can develop trust to represent their interests throughout the case. Amending s. 41 would weaken the safeguards for the child and be inappropriate at a time when Cafcass is under extreme pressure and is struggling with backlogs in both public and private law proceedings.

The President of the Family Division published Interim Guidance in July 2009 designed to address the problems. He stressed that the changes, which include the widespread use of duty systems with the resulting risk to continuity of practitioner, would be temporary and will be reviewed by him in April 2010. It would therefore be premature to amend an important piece of primary legislation for children before the President has had a chance to review the impact of the interim arrangements on the children and proceedings concerned.

**Extension of media rights in family cases: need to protect children**

The Alliance is in favour of making the work of family courts more transparent to a wider audience but there are alternative methods of doing this, which do not subject already vulnerable children to further risk. The Alliance therefore calls on Government to withdraw proposals to permit media access to written evidence and reporting of the ‘substance’ of cases.

The proposals insufficiently protect and prioritise the welfare of children.

- They risk causing further significant harm to children where very personal details of their lives are published in local and national press and on the Internet.
- They put children in proceedings at risk but also other children in families.
- For children subject to permanent placement outside their birth family, there is an increased risk to the future stability of their adoptive, foster or other permanent family.

- For children subject to questions about immigration and asylum status, media exposure may increase risks of serious harm or threat to the life of the child, their family in the UK - and in the country of origin.
- The situation for children is especially acute when reporting takes place in 'local' and minority ethnic communities, where children may easily be identified despite attempts at anonymisation of cases.

The proposals undermine a key ethical principle of confidentiality underscoring the work of doctors and social workers. When talking with children professionals will have to explain to them that the media may see any resulting report. This knowledge will affect the willingness of children to discuss fears and concerns, undermine their trust in adults and family courts and potentially leave them at risk of yet further harm.

We have serious doubts about whether proposals are compliant with Article 8 of the European Convention on Human Rights and Articles 3, 12 and 17 of the United Nations Convention on the Rights of the Child. Of particular concern is lack of attention to *General Comment 12* (June 2009) United Nations Committee on the Rights of the Child – Guidance on Article 12.

The need to consider on a case-by-case basis any necessary reporting restrictions and their scope will add considerably to delay and cost in cases at a time when the government is seeking to control legal costs and reduce harm to children through delays in planning for their future welfare.

We do not consider it appropriate to rush into yet further change in this area, so soon after allowing the media increased access to hearings in April 2009. In addition, limited pilots to provide anonymised judgements are about to be implemented; this is a further step in opening up family courts in a careful and child centred manner. The pilots however require independent evaluation and therefore we cannot support a further initiative at this stage.

The Association of Lawyers for Children (ALC)  
Professional Association for Family Court Advisers and Independent Social Work Practitioners (NAGALRO)  
Family Law Bar Association (FLBA)  
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)  
Dr Danya Glaser  
Great Ormond Street Hospital for Children, NHS Trust (media rights)  
Resolution - First for Family Law (formerly, Solicitor's Family Law Association)  
Royal College of Paediatrics and Child Health  
VOICE – Children's Advocacy, Voice for the child in care  
Women's Aid Federation – England  
Liz Walsh-Editor, Family Law

26 October 2009

#### NOTES TO EDITORS

- For media enquiries regarding **amendments to s.41 of the Children Act CONTACT NAGALRO - ALISON PADDLE - Press Officer - 01539 737 232 (MOBILE 07789 252 453)** or NAGALRO Office Karen Harris – 01372 818 504.
- For media enquiries regarding extension of media rights **CONTACT ALC – BARBARA HOPKIN (m) 0797 062 0156**, or ALC Office – 0208 224 7071.