

APIL Child Abuse Special Interest Group Meeting

King's Fund, London

Thursday 26 April 2007 between 6.00 p.m. and 8.00 p.m.

ATTENDEES:

Emma Anthony

Ayesha Chubb

Alan Collins

Deborah Corcoran

Tracey Emmott

Samantha Follows

Miles Hicky

Malcolm Johnson

Justin Levinson (speaker)

May Maughan (speaker)

Tony Mills

Victoria Mortimer-Harvey

Tracey Storey (Secretary)

Barry Tattam

Gary Walker

Jonathan Wheeler (co-ordinator)

Sue Cheesley

Tricia Edmondson

Jonathan Wheeler opened the meeting and explained that unfortunately one of our speakers had, had to cancel. This was Chris Gore of the Legal Services Commission.

The first speaker was Justine Levinson who had prepared a detailed handout entitled “Liability for Social Services Departments for Failing to Remove Children from Foreseeable Risks of Harm”. Justin’s presentation is available on the website. Justin went through the substantive law in relation to the civil claims and then discussed applications to the Local Government Ombudsman.

The second speaker was May Maughan who is the current deputy Official Solicitor. May set out how the Official Solicitor represented children and patients in County Court and High Court proceedings. She also explained how the Official Solicitor’s office dealt with the administration of estates and trusts and for example had been dealing with the administration of the funds paid out to “shaken babies” who continued to live with the perpetrator of the assault. They also dealt with divorce, Children Act proceedings and child abduction.

In the Civil Litigation Team there were 9 case workers and 3 civil litigation lawyers.

The team handled about 1,000 cases and over the last years the cases involving children who have been left in an abusive environment had increased enormously. The team now had about 100 cases and it all started about 20 years ago when people started making claims for criminal injuries compensation on behalf of children. When the Official Solicitor was looking at these cases which included failings by the local authority and abuse by foster parents May started to consider whether there were possible actions against the local authority. She was seeing cases involving unsuitable adopters who were not properly vetted and at that stage the answer to the question was no.

Then came along the cases which became known as X -v- Bedfordshire. Dr Dora Black the psychiatrist in the case said it was the worst case of neglect she had seen. The case failed in the House of Lords and then went to Europe. This was the first time for the Official Solicitor and this culminated in the decision of Z -v- UK.

May set out how most of the cases came on referral from the Children Act solicitors. Sue Cheesley currently has the bulk of these cases and the Official Solicitor takes the view that the family lawyer may not be the right solicitor for the job. However, if that family law firm has a Personal Injury Department with a Law Society Personal Injury Panel Member then they may consider leaving the case with those solicitors. May had seen cases with smaller non-specialist firms who had made a huge meal of the cases spending £20,000 before even getting the social services records. Accordingly the Official Solicitor takes the view that if the case is not going anywhere, they will take the case away.

The problems that the Official Solicitor is seeing is getting leave in the care proceedings to disclose papers. There are delays in getting funding and delays in getting social services records as well as expert reports.

To date the Official Solicitor has seen one case which has been unsuccessful and one case which has gone all the way and received compensation of £32,000. The case workers do a full summary of the case and the lawyer reviews the case regularly.

Following May's presentation, Tracey Storey of Irwin Mitchell then gave a presentation on failure to remove cases and the Legal Services Commission. The presentation is also available on the APIL website. Tracey spoke in place of Chris Gore who unfortunately was unable to attend.

Each of the speakers took questions and there was a full discussion regarding these type of cases and the way forward with them.

Finally, Victoria Mortimer-Harvey from the APIL Executive gave an EC update concentrating on the government's consultation paper on streamlining the claims process.

Finally, Jonathan Wheeler concluded the meeting by advising the members of a posting on the website of Vera Baird concerning limitation law. Jonathan and Tracey then reminded the members of the child abuse online forum which is available on the APIL website.