**Prior Preparation Prevents Poor Performance, so learned the London Borough of Newham in The London Borough of Newham v The Mother & Ors!**

The judgment in the case of the London Borough of Newham v The Mother & Ors [2023] EWFC 60 followed a 2-day hearing on 23rd and 24th March 2023 at which HHJ Reardon made an Interim Care Order in respect of baby ‘V’.

HHJ Reardon however was so concerned by the “fundamental errors made in the preparation and presentation” [2] of the case, that a written judgment was handed down and published in order to draw attention to principles that she outlined should already be well known.

The background to this case was that there had been previous public law proceedings brought by a different Local Authority, during which the Mother had been found to lack capacity. The final hearing in those proceedings lasted 13 days and had also come before HHJ Reardon, where she found some of the Local Authority’s threshold allegations proved, but not others. That Judgment has not yet been published but the Judge notes in this Judgment that she intends to do so in an anonymised form.

When the application by the London Borough of Newham was issued, it was allocated to HHJ Reardon due to her experience of the family, however, the Judge rightly notes that had she not been sitting at the time of the intended Interim Care Order hearing, the application may have gone before any other Judge sitting at the East London Family Court that week. Upon reading the Local Authority’s initial statement and interim threshold, the Judge noted that “it was immediately obvious that they presented a misleading impression of the history” [18].

HHJ Reardon then began to hear the matter on 23rd March and it became apparent that none of the advocates had seen a copy of the judgment from the previous proceedings.

The Judge sets out in her section of the Judgment entitled ‘What needs to happen in future’ [28-35] a clear message as follows, though specifically does not refer to this as ‘guidance’ [35]:

1. The very clear message from the President of the Family Division, Sir Andrew McFarlane, is that the system can only function if there is a “radical recalibration of the resources, in terms of the time and the number of hearings, that can be applied to any given case.1” The message to “Make Every Hearing Count” was repeated in January of this year through the re-launch of the Public Law Outline2
2. The unpredictable nature of family cases means that the occasional ineffective hearing is unavoidable. That makes it all the more important that professionals (both social workers and lawyers) do not compound the problem by rendering hearings ineffective through a lack of proper preparation.
3. In any case where a court has delivered judgment, particularly where findings have been made, the judgment will be the starting point for future decision-making, and therefore any account of the background set out in a social work statement or other document should take the judgment as its primary source. There is no point in trawling through old documents to put together a history when the facts have already been determined, and to do so is likely to create a confusing and misleading picture.
4. I recognise that the fact that an allegation has been made, even if it has not been found proved, may continue to be of relevance, and so there may be a need to refer to it in a subsequent document (the unproven sexual abuse allegations in this case provide a good example of such a situation, because although those allegations were not found proved, the fact that they were made was and is relevant to the nature of the parental relationship). However if that happens, the author of the document must make the status of the allegation clear.

Whilst the Judge is clear that this is not guidance, it is a helpful summary and reminder of the due diligence required when dealing with short notice applications, ensuring the Court has all of the necessary and accurate information.