

Friday Family Law Roundup

Sometimes it can be incredibly difficult to keep up to speed on all of the news, case law and other updates in family law, so I've decided to compile a weekly roundup of all of the important bits you might have missed! Here's your weekly summary of important new legal developments in the world of family law this week, and this week it's looking a little like a Deprivation of Liberty special.

Case Law

Re EBY (A Child) (Deprivation of Liberty Order: Jurisdiction) (17-year-old) [2023] EWHC 2494 (Fam) – <https://www.bailii.org/ew/cases/EWHC/Fam/2023/2494.html>

- The case involved an application for authorisation to deprive the young person, aged 17 and accommodated under s.20, of her liberty.
- The issues were whether the Court had jurisdiction to make a deprivation of liberty order at all, and if so, then whether the inherent jurisdiction should be exercised.
- The Court considered the s.100(2)(b), s.100(2)(d) and s.31(3) Children Act 1989 did not exclude the Court from exercising its inherent jurisdiction in relation to a competent and non-consenting 17-year-old in circumstances where that child is accommodated by the Local Authority pursuant to s.20(3) Children Act.
- In relation to s.100(2)(d), the Court referred to the Supreme Court decision in *Re T* [2021] UKSC 35 and *Birmingham City Local Authority v D* (SC(E)) [2019] 1 WLR 540, where it made clear that the deprivation of liberty order did not confer parental responsibility on the LA where they already had PR by way of a Care Order.
- The case was distinguished from *Re LS* [2019] EWHC 1384 (Fam), where the Court found that s.100(2)(b) did exclude the Court from making a deprivation of liberty order in those circumstances where the young person was not a looked after child, was 17-years-old and her parents had not consented to s.20 accommodation being provided.
- In relation to whether or not the inherent jurisdiction was impliedly excluded by s.31(3), which prohibits the making of a Care Order or a Supervision Order in relation to a 17-year-old, the Court noted that the Children Act 1989 does not exclude the making of a deprivation of liberty order for 17-year-olds, and considered that the state's protective duties under Articles 2 and 3 of the ECHR was a "powerful factor that militated against the exclusion of the inherent jurisdiction in *Re T*".

News

Kent County Council to stop providing accommodation for care-leavers post-19 – <https://www.bbc.co.uk/news/uk-england-kent-67124733>

- KCC are proposing to amend their care-leavers provision to provide accommodation up to 19 years of age instead of 21 as it is currently, amid budget pressures.

AI – an unexpected ally for separating families? -

<https://todaysfamilylawyer.co.uk/ai-an-unexpected-ally-for-separating-families/>

- Useful information regarding the co-parenting apps on offer and the use of AI in such circumstances.

Rules, Procedure and Protocols

National DOL Court now becomes National DOL List (NDL) -

<https://www.judiciary.uk/guidance-and-resources/revised-national-listing-protocol-for-applications-that-seek-deprivation-of-liberty-orders-relating-to-children-under-the-inherent-jurisdiction/>

- As from 2 October 2023, all C66 applications seeking orders to deprive any child of their liberty ('DoL orders') shall continue to be issued centrally in the Royal Courts of Justice via the following email address: (rcj.nationaldolslist@justice.gov.uk).
- The C66 application must state (with brief reasons in support) whether the application needs to be heard in A – 4 hours; B – 24 hours; C – 3 days; or D – 5 days
- The Protocol requests that every effort is taken to avoid issuing urgent applications on a Friday due to pressures in listing on Fridays.

Revised Guidance on the court's approach to unregistered placements –

<https://www.judiciary.uk/guidance-and-resources/revised-practice-guidance-on-the-courts-approach-to-unregistered-placements/>

- The Court of Appeal in *Re A Mother v Derby City Council* [2021] EWCA Civ 1867 held that the inherent jurisdiction may be used to authorise a deprivation of liberty in an unregistered children's home, so long as the requirements, set out by the Supreme Court in *Re T* [2021] UKSC 35, are met.
- It is not the Court's function to establish whether a placement is registered nor the steps towards registration, and it places a considerable burden on the Court to do so.

Chambers News

Just a bit of fun; Bibi Badejo is on the shortlist for most stylish female barrister of the year! Give Bibi your vote here - <https://www.surveymonkey.co.uk/r/13FJWRH>

Sarah Barber