

UK Legal News Analysis

Could Practical Measures Reduce Adoption Delays?

LNB News 13/10/2011 54

Published Date

13 October 2011

Jurisdiction

UK

Related Legislation

Children Act 1989

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Abstract

The adoption system is being challenged more than ever before--primarily through delays caused by a range of different issues. Nicola Laver speaks to Arlene Small, a barrister at Clerksroom, Taunton about how practical changes could drastically reduce delays in the adoption system

Analysis

Faster decisions from the courts on adoption applications would help reduce the waiting time for children, minimise the damage done by delay and give them a better chance of a successful placement, according to a legal consultant for the British Association for Adoption & Fostering.

Delay in adoption proceedings is, says Arlene Small, an issue that has troubled practitioners, the judiciary and the general public for years. However, she says: "There is no singular answer as delays are usually caused by a combination of factors; the level of demand for court time, fewer courts available and a shortage of judges having the necessary expertise available to hear such cases, to name but a few."

In an effort to save administrative costs a number of Family Proceedings (Magistrates) Courts have been subjected to closure, or have had their services combined with other courts so they only sit one or two days a week. However, Small points out that this reduces general court availability. She adds: "There is also the lengthy process of social work and expert assessment as to the parenting capacity of the child's parents, prior to determining whether a child should be placed for adoption or not. While some cases may be deemed 'hopeless', it is still a widely held view that it is better for a child to be brought up within its biological family whenever possible, so to that end, judges have to be satisfied that all reasonable opportunity for that to happen have been explored. It is equally important that the parents who find themselves in these difficulties are given ample support and the chance to rectify whatever issues have been raised within the assessment process."

Given that there is also delay with regards to the time spent at court making actual progress in the case, Small suggests that delay could be minimised with, for instance, continuity of the judge dealing with the matter, and parties being willing to travel to where a particular judge sits where reasonable to do so in order to achieve such continuity. Small explains: "That would certainly mean less time at court going back over historical elements of the case and bringing a judge up to date, and also mean that there would be more

opportunity for a case to be brought back to court much quicker according to the availability of that particular judge."

She also suggests greater use of agreed case summaries and statements of issues which would then mean less time taken in court with every party putting their case orally. "Admittedly," Small adds, "there may be times when a party needs a point to be put in that way but on, for example, a short directions appointment, that may not always be necessary. As an example, directions hearings could then be reduced from 30 minutes to 15 minutes.

She goes on: "Better use should be made of Advocates Meetings prior to the date of the hearing, so that less time is spent talking at court, which puts pressure on the courts list." She emphasises that small changes such as this could release court time to take a greater volume of work.

Whilst all practitioners in this area are fully aware of the "no delay principle", that delay is not in the best interests of any child, Small warns: "This has to be balanced against those cases where there is 'planned and purposeful delay' designed to achieve some positive outcome for a child in the care system. Better communication of this fact from the Judge to those that come before it, and from practitioners to their lay-clients, or even from social workers to potential adopters, would perhaps lessen the frustration that is felt when matters are subject to adjournments and extensions of time whether agreed or otherwise."

Small does not see the need for further legislative powers to emphasise this point. She says: "What is needed is for those working within the system to look both individually and collectively as to practical changes that can be made both to use what time there is available much more productively, and to communicate more effectively when there are problems."

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