



HOUSE OF LORDS

Children and Families Act 2014 Committee Corrected oral evidence: Children and Families Act 2014

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Members present: Baroness Tyler of Enfield (The Chair); Lord Bach; Baroness Bertin; Baroness Blower; Lord Brownlow of Shurlock Row; Lord Cruddas; Baroness Lawrence of Clarendon; Baroness Massey of Darwen; Baroness Prashar; Lord Storey; Baroness Wyld.

Evidence Session No. 3

Heard in Public

Questions 26 - 32

Witness

I: Professor Beth Neil, Centre for Research on Children and Families, University of East Anglia.

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Examination of witness

Professor Beth Neil.

Q26 **The Chair:** Welcome back to the session. I would particularly like to welcome our witness, Professor Beth Neil, from the Centre for Research on Children and Families at the University of East Anglia. For Beth's purposes, this will be a panel of one, because unfortunately some emergency issues came up for our other witness at the last moment. Thank you very much indeed for your time.

The purpose of this session is to try to look at some of the critical issues in the English adoption system, which is what we are concentrating our efforts on at the moment. We have been very conscious, looking at all the statistics, that the number of adoptions has fallen steadily since 2015. I wondered if you could tell us why that is.

Professor Beth Neil: The rise in special guardianship happened before 2015, and the figures for special guardianship have been maintained, so it is not really the case that, from 2015 to now, fewer children have been adopted, because more are going into special guardianship. The problem seems to be that fewer children are getting an adoption decision as their permanency plan. Fewer children are being put forward for adoption. Most people agree that this relates to two case-law decisions in 2013, *Re B* and *Re B-S*, which have created widespread confusion among both legal and social care practitioners about whether the threshold for adoption has changed. The first judgment, *Re B*, emphasised that adoption was suitable only when nothing else will do. The second judgment, *Re B-S*, emphasised that robust evidence needs to be put before the court to make the case for the child's adoption. The fall in adoption figures seems to have followed from these case-law decisions.

The second issue is that there still is a gap between the adoptive parents who are coming forward, being recruited, being approved and waiting, and the children who are waiting. If you look at the numbers, there are enough parents for all the children who are waiting. We have even had periods—it might be the case now—when there have been more parents than the numbers of children waiting, but they are not being matched up. That seems to be because the characteristics of children who are waiting and the characteristics of children whom people would like to adopt are not the same. We still have groups of children who are harder to place—those who are older, have disabilities, have uncertainty about their development, are from minority ethnic groups or are in sibling groups. There are still a lot of children waiting a long time to be matched with parents. That suggests that we need to continue to work on recruiting people who have a child-focused motivation, understand the pool of children waiting and have a motivation to parent a child with these kinds of characteristics and special needs.

The Chair: Pursuing for a moment your point about the case law and the uncertainty that it provoked, do you think there is still uncertainty among social workers, local authorities, some courts and others about whether

adoption should be seen as the last resort? Is that clearer now?

Professor Beth Neil: There does not seem to have been a recovery in the numbers of children being put forward for adoption. It does not seem to be the case that, for two or three years, people were affected by these decisions, but now everybody knows a bit more about what it means, because the numbers have not really recovered. If you look through the most recent discussions about adoption figures in the Adoption and Special Guardianship Leadership Board minutes, they say that this is still the key problem. It is children being put forward for adoption at the agency decision-maker stage. That is where it is not happening.

The Chair: As you said, the 2014 Act that we are scrutinising did not cover special guardianship orders. If it had, what do you think should have been included, or what ought to be included if there was a new Act now?

Professor Beth Neil: I watched the previous session, and I would say that it is about the parity of support that special guardian families need. It is about ensuring that potential special guardians have legal representation, are party to proceedings and have entitlements to the support that they need. It is great that they can now access the adoption support fund, but the evidence is that they are not accessing in it anything like the numbers that adoptive families are. A relatively small proportion of people accessing the adoption support fund are special guardians.

Q27 **Baroness Wyld:** Good afternoon, Beth. You touched on this in your opening answers, but I wanted to talk about the experience of children from different ethnic minority groups and disparities in the system. The Act tried to address this in terms of how long different groups were waiting. It sounds like your answer would be that it has not been successful, but I wondered whether you could elaborate on that and talk a bit more about why you think these problems still exist.

Professor Beth Neil: I am not a super-expert in this area, but it is still a concern that one group of children who are waiting longer are children from ethnic minority backgrounds. Some reasons for this that people are discussing might be biases about what a perfect family is for a child. For example, ethnic minority families who are coming forward and saying "We would like to adopt a child" may have less financial resource or be less likely to be married. People might think that they are not the perfect family.

If you are looking particularly at material resources, you have a sibling group and you are thinking, "Has the family got a bedroom for each child?", that will bias you towards families from higher socioeconomic groups. We know that there are disparities in income and poverty that relate to ethnicity. There might be factors like that going on—the intersection between ethnicity, poverty and possibly marital status.

In terms of ethnic minority families coming forward, one thing that people are thinking about is the composition of adoption panels, which tend to be

very white. Can we make movements there and have more black representation on adoption panels? Also, if children are going to be placed with families who do not reflect their ethnic background, can we increase the offer in how we support parents? Do the parents understand what they need to do to help that child to grow up with a healthy sense of identity? We know that that is crucial.

Children in transracial placements can have real difficulties with their ethnic identity. Maybe we need to develop more understanding of what white parents can do to successfully parent black children, as well as recruit more black families. We need to do more on keeping children in touch with their families of origin and their culture. The lack of birth family contact is a big issue in adoption. As to exactly what is going on, I do not know all the answers, I am afraid.

Baroness Wyld: I am sure that other colleagues will want to come in. I want to pick up on one point that you make. You may not know the answer. Why do we not have more diverse adoption panels? It is not hard to solve, is it?

Professor Beth Neil: I do not know why, but I know that it is an area that people want to look at and work on.

The Chair: Does anyone else want to pursue the point? If not, we will have to pursue the point separately.

Baroness Lawrence of Clarendon: I did not want to ask that question, because I think it is a race issue. There is the mere fact that you are thinking about a perfect family. What is a perfect family? Being single and not married should not be a reason why young people are not able to get adopted by the adopters. That is what we need to look at with our work here: why the panel is not diverse. That is part of our recommendation from this group: that that should happen.

The Chair: Thank you. That was a very helpful contribution.

Q28 **Baroness Massey of Darwen:** Beth, you talked about the importance of entitlement, and I am sure we would all agree that that is essential across the board. Do you think that families receive the right information, budgets and support to assist them, post adoption? Where do they get this information from? Is it just awareness raising or is it specific?

Professor Beth Neil: It is an area that adoption agencies have been working on. This has come out in the evaluation of the new regional adoption agencies—that they are trying to inform adoptive parents more, even at the preparation stage, about what support is available. There is a lot more to do. From research, we know that what creates barriers for families in getting help is first understanding their entitlements, which newer adoptive parents coming through are more likely to do. Lots of people coming forward for help might have adopted a child 14 or 15 years ago and they are not aware of what is available.

Secondly, adoptive parents might hold back from asking for help, because that might feel like a failure or they might feel like they should be able to cope without asking for help. The messages that people get at the

preparation stage are really important: "We expect that you might need some help. You should feel free to come back. Here's what you do when you need help".

What is also really important, and some regional adoption agencies are working hard on this, is undertaking a much fuller assessment of the child's developmental needs before they are adopted, so that the adoption support plan, which is required, is realistic, both about what the child might need currently and about what they might need in the future. The support should be put in place right from the beginning, or parents should be told what to look out for: "If this starts to happen, that might be a sign. You should come back quite quickly and we'll try to get some help for you". Those assessments of the child at the time when they are going into adoption are really important in helping parents to access support more.

Baroness Massey of Darwen: What about budgets?

Professor Beth Neil: It is interesting, because I saw that might be on the list of questions. I do not know what is happening about the use of personal budgets in adoption. The fact that I do not know what is happening about it suggests that I have never heard it discussed in any conversations at any of the adoption events or anything else that I have gone to. I do not know that that has been the main focus.

The main focus, in relation to adoption support, has been developing in-house services that the adoption team itself will deliver, such as life story work, peer support, buddying, adoptive parent groups, groups for adopted children, the adoption support fund and therapeutic support. That is what all the discussion is about, and I have never heard anybody discuss personal budgets in adoption support. They may exist. You might need to find another witness to tell you about them. I am sorry.

Baroness Massey of Darwen: Thank you. That is very interesting.

Q29 **The Chair:** In case it is helpful, the briefing we have received says that the section of the Act that related to personal budgets was never brought into force. There is an interesting question for us: whether we think it should be. That is my understanding, but I am not an expert there. I have a quick follow-up. Do you feel that prospective adopters fully understand the potential impact and value of contact, and do you feel that there should be a presumption of contact?

Professor Beth Neil: Do adoptive parents fully understand the value of contact? Awareness of the importance of contact is growing among adoptive parents. The recent adoption barometer report published last year indicated that a lot of adoptive parents were quite willing to think about contact.

As to whether it is being sold enough as a potential benefit and whether the help and support is in place, I really do not think that it is. Adopted children's levels of direct contact with parents are virtually non-existent. With siblings, there is a bit more; maybe a quarter, not as much as a

third, of adopted children will have direct contact with a sibling after they are adopted.

This is in stark contrast to the children in special guardianship and long-term foster care, who are often the brothers and sisters of children who are adopted. There is a completely different mindset when it comes to adoption and contact. That mindset is embedded at a lot of different levels. It may be embedded in children's social workers.

In summary, there seems to be a template for post-adoption contact. The child is being adopted. It will be letterbox contact twice a year, and probably with the birth mother or her side of the family; it is less likely to be with the father and his side of the family. There may be direct contact with siblings, but only if the siblings are not in contact with the parents. If they are in contact with the parents, that tends to rule it out.

This is almost like a template that every adopted child gets. We need to see a lot more individualised contact planning. Adopted children's need to understand their background and identity, and to deal with issues of loss and rejection, are not being met by this current system.

Q30 Baroness Bertin: One of our panellists in the previous session spoke about social media, technology and how that had changed contact. That had not been discussed at any level. I wondered what your view on that was.

Professor Beth Neil: This unplanned contact through social media, which might be initiated by the adopted child or by the birth family, is driven by unmet needs. We know that the standard plan is letterbox contact, but my and other people's research indicates that it is not really working for a lot of children. A lot of letterbox contact plans never really get off the ground, or they are not sustained, because it is too difficult for people to do.

It is a very unusual way to communicate, particularly these days. It is a very emotional thing to have your child adopted or to write to a birth parent of your child. People do not know what to say. There are lots of unwritten rules about what you must and must not say. There is an agency mediating it. There is a very high fall-off with these letterbox contacts. Even two or three years after adoption, a lot of adopted children do not really have contact with anybody in their birth family. That is why they are going on social media because they can, they want to, they have questions and they cannot get answers to the questions.

Sometimes they are told, maybe particularly when they are bringing up issues of identity in the context of having other problems and feeling troubled as a teenager, "Wait until you are 18. Wait until you are older. You can go and find your family and meet them". They do not want to wait. They can type a few things into their computer and look for their family, and that is what they do.

From the birth family point of view, if the letterbox fails, they have no information about where their child is, how their child is, even whether they are alive or dead. They have all these fears: "What if something

terrible has happened to them?" Of course, when those needs are not met, they will look.

We have to address the unmet needs that lead to people doing it. Adoptive parents have to keep a very open dialogue with their children. They have to talk it through with them in advance: "Have you ever thought about whether you might get a message from your birth family and what you might do?" They have to talk to kids: "Have you ever thought about looking for your brothers and sisters online?"

Baroness Bertin: It strikes me as obvious that this must be going on. It is quite understandable. We need to be making sure that there is some support for families on both sides. This is an inevitability.

Q31 **Baroness Prashar:** Do you think that the 26-week limit on care and placement proceedings strikes the correct balance between justice and speed? Do you think that there is need for greater flexibility?

Professor Beth Neil: It has worked to shorten proceedings, without a doubt. Research carried out by my colleague at UEA, Jonathan Dickens, and Judith Masson at Bristol has seen that it has roughly halved the time of proceedings. For most families, that was a good thing. In their research, they highlighted a concern about rushed kinship care assessments, which the committee has already heard about.

There are also concerns about justice in the adoption system. Whether that is related specifically to the 26 weeks, I do not know. The number of new-borns taken into care within a week of being born has really risen. The Nuffield Family Justice Observatory has been looking at that issue. About half of those new-borns, kids coming into care at less than a week old, go to adoption.

The observatory's research on that issue is showing that there is a lot to be improved in practice here. We are not working with pregnant mums and dads early enough. Their case is not getting to the top of the list, because in their caseloads the social workers are juggling a child who is not yet born with children who are born. They are saying, "We are not going to work with you. We will work with you later". That does not give families the time to make changes before the child is born, to prepare for legal proceedings.

There is lots that we can do to improve the support and care around families when children have to be removed at birth, because it is massively stressful for families themselves, as well as for medical practitioners and social care practitioners. The number of new-borns coming into care is a particular area of concern.

People have also expressed particular concerns about domestic violence cases, where maybe mothers are deemed to be failing to protect their children and the children end up being adopted, but the mothers themselves are not harming the children. Twenty-six weeks is a very short amount of time to break out of an abusive relationship and get your life back on track. There are concerns about those kinds of issues as well. There is a general concern in the sector about the continued emphasis on

adoption at a time when public services are being so massively cut, and the early intervention and help for families is getting less and less. There are these kinds of concerns in the sector.

Q32 **Baroness Lawrence of Clarendon:** What one change would you like to see being made in the English adoption system?

Professor Beth Neil: As an overall umbrella thing, we need to stop thinking that if we get a child adopted, we have done our job, we have met the goal. Adoption is just a stage in what we need to do to help children who have been abused and neglected. The changes that I would like to see are to keep strengthening the support that we put in for children, particularly developing multidisciplinary assessments, and to make sure that we put that support in from the beginning for children. We need to think about children's relationships and identities. Adoption wipes them out legally, but we know that it does not wipe them out psychologically. We need to recognise that about the adoption system and think about birth family contact and foster carer contact. Putting the services in for adult adopted people is crucial. We have generations of people affected by adoption. They need help to deal with all these issues. It is about not thinking of adoption as the end of the child's journey, but thinking about what happens after adoption.

Baroness Lawrence of Clarendon: Are there any examples of international best practice that we could learn from?

Professor Beth Neil: One example from the Netherlands that was put in place several years ago was an evidence-based intervention, which was developed to help build an attachment relationship between children and their adoptive parents. It is called VIPP and is recommended by NICE in the UK. The Dutch Government guaranteed funding for it for every adoptive family. They were not looking at whether people needed it, just that everybody was entitled to have it.

Something like that is really sensible, because it is quite a low-cost intervention compared to the costs of supporting very troubled teenagers whose adoptions have got into difficulty. It is an intervention that we know can have a long-term effect and head off those future problems.

At the moment, with our guarantees for adoption support, adoptive parents are entitled, as everybody is, to an assessment of need. They are not entitled to any actual level of adoption support as a matter of right.

What they get depends on what agencies can put in place and what the Government will fund. It is not enough for adopted children. For birth parents too, the support is not enough. That was an example of a Government funding an effective intervention for everybody.

In terms of birth family contact, there are some interesting international examples we can learn from. Very close to home, in Northern Ireland a lot more adopted children have face-to-face contact with their parents. Its law is different from ours, although not particularly different. I was asked earlier whether there should be a presumption of contact, and I did not answer that. There is no presumption in Northern Ireland. The

interpretation of the law is different in Northern Ireland. We can learn from that.

Another interesting international example of the law being different is New South Wales in Australia, where contact with the birth family is actually mandated in adoption. Its model of adoption is adoption with lifelong birth family connections. We need to look at that and see how it goes and what the value is of having this kind of much stronger emphasis on openness in adoption. We also have examples from New South Wales of developing consensual adoption arrangements. Harriet Ward's study on open adoption in New South Wales is really useful for us to look at and learn from.

The Chair: Thank you very much indeed. There were some very helpful references there, which I am sure we will want to follow up on, particularly some of the academic references, but those examples of international best practice were also really helpful. Can I thank you very much indeed for coming and giving evidence? It has been very helpful to us, so thanks very much for your time and expertise.