



THE IMPORTANCE OF SIBLING RELATIONSHIPS

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THE NUFFIELD RESEARCH

- SIBLINGS, CONTACT AND THE LAW: AN OVERLOOKED RELATIONSHIP?
 - Nuffield Foundation & Birkbeck (Nov 2018)
 - Professor Daniel Monk & Dr Jan Macvarish

THE NUFFIELD RESEARCH

- Research project considered significance that can be attached to sibling relationships in care and adoption proceedings.
- The 1st legal study to focus on sibling relationships in England & Wales.

SUMMARY OF FINDINGS

- The significance attached to sibling relationships in care and adoption proceedings can be routinely outweighed by other factors.
- This puts siblings at risk of losing touch with each other.

CONTEXT

- Concerns are not new.
- No currently available govt data re extent of sibling separation.
- Multiple sources of disquiet.
- Theory is not being put into practice – sibling relationships often severed or drift apart.

WHY HAVE THINGS BEEN GOING WRONG?

- In practice strong recognition only given to relationships between full and half siblings.
- Relationships between step siblings and foster siblings rarely given weight in legal decision making.
- Age-driven decisions often take precedence.

REASONS SIBLING RELATIONSHIPS FALL APART?

- Several reasons, but not straightforward to explain.
- No accurate statistics.

CASE LAW

- **Re P-M (A Child) [2013] EWHC 1838**
 - Ryder LJ
- **LB Haringey and MUSA [2014] EWHC 1341**
 - Holman J

METHODOLOGY

- Three stages of the research methodology
 - Mapping the statutory framework
 - Analysis of the case law
 - Interviews with professionals

TERMINOLOGY

- Terminology was the starting point.
- Focus has shifted away from family structure towards questions of relationship qualities.
- Definitions matter because identification of siblings informs the legal framework and legal protections available.

ASSESSMENT OF SIBLING RELATIONSHIPS

- Sibling assessment are crucial sources of evidence in variety of legal contexts.
- No universal model for practice of assessment – considerable variation.
- Difficult to establish what constitutes a sibling assessment.



KEY MESSAGES FROM THE RESEARCH

- 10 key messages from the Nuffield research



KEY MESSAGES FROM THE RESEARCH (1)

- Siblings matter, but...
 - Strong recognition of the importance of sibling relationships.
 - The significance easily and routinely outweighed by other considerations.

KEY MESSAGES FROM THE RESEARCH (2)

- Who is a sibling?
 - Lack of clarity and consistency in the terminology.
 - Relationships between step-siblings and foster-siblings rarely given weight in legal decision making.

KEY MESSAGES FROM THE RESEARCH (3)

- Sibling relationship assessments
 - Lack of clarity in law and practice about when and how sibling relationships should be formally assessed.

KEY MESSAGES FROM THE RESEARCH (4)

- Assumptions in assessments
 - In legal decision making, it appears that the simple fact of the age of children tends to carry greater weight.

KEY MESSAGES FROM THE RESEARCH (5)

- Placement planning and contact
 - Contact arrangements between separated siblings are heavily determined by placement type.
 - Questions about capacity of guardians and IROs to safeguard and ensure contact is maintained.

KEY MESSAGES FROM THE RESEARCH (6)

- ‘Closed’ adoption is the norm – 3 powerful assumptions may outweigh promotion of anything except indirect contact
 - Direct contact will deter prospective adopters
 - Post-adoption contact should only take place with agreement of adopters
 - Security/stability of placements may be undermined by contact with siblings

KEY MESSAGES FROM THE RESEARCH (7)

- The effect of Re B-S on adoption practice
 - Some practitioners find it hard to reconcile 'nothing else will do' with attempts to ensure siblings are placed together, or, if placed apart, continued direct contact with each other.

KEY MESSAGES FROM THE RESEARCH (8)

- Insufficient weight placed on interests of older siblings, especially in adoption proceedings.

KEY MESSAGES FROM THE RESEARCH (9)

- Exceptionally rare for sibling contact orders to be made in care and adoption proceedings.
- Preference for 'time-limited' searches, but efficacy of such orders is subject to question.

KEY MESSAGES FROM THE RESEARCH (10)

- As a result of the overarching focus on resolving issues of parental responsibility, children's own views about their siblings may be overlooked.

CONCLUSIONS

- Recurrent finding that there is an existing recognition of the importance of the sibling relationship for children and young people.
- It is the professional commitment to this which underpins concerns.

IMPLICATIONS FOR PRACTICE

- There IS a compelling case for taking siblinghood seriously.
 - Siblings play a key role in child devpt, identity and emotional wellbeing throughout life.
 - Changes in sibling roles have been central to key shifts in Western family structures.
 - The gender neutral concept of 'sibling' is relatively recent.

IMPLICATIONS FOR PRACTICE

- There are different dominant assumptions that inform legal decisions about legal siblinghood.

IMPLICATIONS FOR PRACTICE

- Could be useful in arguing for sibling asst.
- Useful in challenging contents of sibling assessment –
 - No universal approach
- Useful in challenging scope of sibling assessment –
 - Quality of relationships over structure.

IMPLICATIONS FOR PRACTICE

- BUT the Nuffield research does not seek to advocate a particular position so useful for drawing to court's attention, but no more.

SUBSEQUENT CASE LAW

- ABC v Principal Reporter and another
[2020] UKSC 26
 - Supreme Court (in dealing with appeals by siblings of young children) confirmed that siblings can be as important as parents.
 - They are a potentially powerful influence on development.
 - Half-siblings should be brought up together wherever possible.