



lawyers for
children & young people

Clan Childlaw Intervene in Judicial Review proceedings to redress the balance between the Sharing of Information and a Child's right to Privacy

By Alison Reid, Principal Solicitor, Clan Childlaw

11 May 2015

A charity that gives legal help to children and young people in Scotland has applied to intervene to assist the court in the ongoing judicial review proceedings regarding the Children and Young People (Scotland) Act 2014. Clan Childlaw is of the view that the balance between sharing information amongst professionals and the ability of a young person to access confidential services has shifted too far towards the sharing of information, unlawfully interfering with a child's right to privacy as protected by Article 8 of the European Convention on Human Rights.

The Act sets a lower threshold for sharing information about children than has previously been the case. It drops the threshold from the widely understood child protection test of "risk of significant harm" to a much lower one around concern for a child's wellbeing. It allows for the sharing of confidential information at that lower threshold even if the child does not consent. There is a serious risk that the overriding of confidentiality when there is no child protection concern will lead to children being reluctant to engage with confidential services, which will ultimately be to their detriment as they will be unable to access the help they need.

Alison Reid, Principal Solicitor of Clan Childlaw, said: "We all want to make sure that children and young people in Scotland are protected and recognise that when child protection issues arise, these need to be shared appropriately amongst professionals. However, where there are no child protection concerns, a child, like anyone else, should be entitled to a level of confidentiality when accessing advice. This Act creates a serious risk that children and young people will not access confidential services when they are in need of help."

Community Law Advice Network (Clan Childlaw) is a charity and law centre. It provides free, child-centred, outreach legal advice representation to the most vulnerable children in Scotland, the vast majority of whom are care experienced. It also provides training and contributes towards policy development.

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