

## Using your legal department in social services transcript

00:00:00 Jane Poore

Hi, Alexandra. What gave you the idea for this particular discussion? And I know the relationship between social workers and their legal team can be complex and long and difficult on some occasions, so.

00:00:20 Jane Poore

What in particular prompted you to think this was a good idea for us to talk about it?

00:00:26 Alexandra Conroy-Harris

I think there are there are two things firstly, that it fits in with the child's journey through care.

00:00:32 Alexandra Conroy-Harris

Yes, because the only way a child can start any sort of journey in the in the care system is with the legal framework, even if it's just a Section 20 agreement, there's a legal framework about how that is created. And of course you got the care proceedings and placement and adoption proceedings and all of those things require the involvement of the legal department require the involvement the Court to underpin whatever arrangements.

00:00:58 Alexandra Conroy-Harris

As children services think is appropriate for that child, and then it came really came out of the agency decision making workshops that we've been doing.

00:01:08 Alexandra Conroy-Harris

We've had the opportunity of going all around the country, meeting a DM's, we have dozens and dozens of local authorities in RA's by now. Yeah. And one of the common themes was quite often that legal departments are telling children services what they can't do.

00:01:27 Alexandra Conroy-Harris

And I've heard I've heard one or two, which I found really surprising. So you've got somebody saying ohh, we were told that early permanent placement wasn't appropriate for this child or that this child shouldn't be the subject of the placement or the application. Yeah. And they really surprised me because they're not things.

00:01:46 Alexandra Conroy-Harris

Legal departments are responsible for their decisions, which local authority children services departments are responsible for and to be told that a child isn't suitable for early permanents. For example, is is not something that a legal department should be doing.

00:02:04 Jane Poore

Do you think they're almost getting involved in the care planning.

00:02:07 Alexandra Conroy-Harris

We do get that get that impression. There's obviously a place for legal departments in care planning because you've got to be able to present the case in court in a way that's going to convince the Guardian, the parents, the court, that this child should follow a certain pathway.

00:02:25 Alexandra Conroy-Harris

And that's no use if you don't have the evidence. You haven't made the right application chairman got the background to support a particular legal application, but that's only very small part of the legal the legal planning meetings any one of the planning meetings which takes place and is only a very small part of the planning process.

00:02:44 Alexandra Conroy-Harris

So you know, by the time you've made the decision, children services made the decision that the case needs to come to court and there needs to be a legal framework around this child's life. There would have been significant experience, direct experience and social worker with the family direct experience of the child.

00:03:03 Alexandra Conroy-Harris

Efforts to divert the families pathway away from legal proceedings and all of these were have taken place without the lawyers being involved. Yeah, so.

00:03:12 Alexandra Conroy-Harris

You've you've had.

00:03:13 Alexandra Conroy-Harris

All those discussions you've, you've you've had the experiences with the family, you've taken it back. So we've taken it back and discuss it with their manager.

00:03:23 Alexandra Conroy-Harris

The managers gone through that decision making process to a senior manager, usually to authorise the issue of proceedings and the lawyers only come in right at the end of that, so they don't have.

00:03:35 Alexandra Conroy-Harris

All the backgrounds, all the experience of the family.

00:03:39 Alexandra Conroy-Harris

And how you've.

00:03:40 Alexandra Conroy-Harris

Dealt with them up until the point at which you involve the legal department and those decisions should be made very carefully. You know, obviously intervening in a family's life is is a huge thing.

00:03:51 Alexandra Conroy-Harris

For children services to do.

00:03:53 Alexandra Conroy-Harris

And you should have the confidence here in the system that you're part of and the way in which decisions are made.

00:04:02 Alexandra Conroy-Harris

And obviously sometimes the social workers don't agree with the decisions, but they would have been part of the discussions. Yeah. And every parents would have had something put into the plans at some point as well. And it should be presented the package if this is what we want to achieve to the lawyers.

00:04:19 Jane Poore

So the social work teams are instructing the lawyers as in any other legal scenario where you know you go to a lawyer to sell your house for you, for example, you're instructing them, so the social workers are instructing the lawyers. Is that the case?

00:04:35 Alexandra Conroy-Harris

Yes, it's it's still, although you're both working for the same local authority, it's still a professional client lawyer relationship. Yeah. And as long as you're not instructing them to do anything unlawful, then lawyers should take your instructions and same as if you're you're selling your house. The lawyers don't suddenly take the garage out of the bargain without getting instructions from you to do that or whatever it is and.

00:04:58 Alexandra Conroy-Harris

The same applies for lawyers and social workers. You don't suddenly change the parameters of what you're going to do with the child or how what you think is in the best interest of the child. Just because the lawyers think that it should go.

00:05:10 Alexandra Conroy-Harris

A different way, yeah.

00:05:11 Jane Poore

But there are times, particularly when you get into the court arena and the proceedings themselves and social workers might feel under particular pressure.

00:05:21 Jane Poore

Do just some of the plans that they came with originally, for example the arrangements for staying in touch with their family or a viability assessment that's been carried out the court may request that another one is done because they don't necessarily accept the social workers finding so.

00:05:44 Jane Poore

There are times when there they come on the particular pressure in in the court arena to change their plans aren't there.

00:05:52 Alexandra Conroy-Harris

Yeah. And everybody's under pressure in the courtroom. The courts are under pressure themselves. Yeah. The courts are under huge pressure to try and deal with all cases within 26 weeks then not meeting those targets. And the majority of cases, they're overloaded and understaffed, like so many other areas of public service, and that pressure gets passed down via the lawyers to children services.

00:06:17 Alexandra Conroy-Harris

But I think when you're sending a lawyer into court the primary going the first here and the primary objective is to obtain an interim care order. We've decided the child needs to be removed. The family, you need the lawyer to go into court and get an initial care order. They haven't been part of the discussions about why you've decided that a particular contact arrangement is best for the child, how it can be managed within all the other demands.

00:06:43 Alexandra Conroy-Harris

Yeah, the contact service within the local authority, it becomes very easy when you get to court and then perhaps a mother says well.

00:06:52 Alexandra Conroy-Harris

I accept that that this child may have to go in foster care for a few week, I'll only agree to that if I can have four times a week contact and the care plans is three times a week.

00:07:04 Jane Poore

It almost gets used like a bargaining tool.

00:07:04 Alexandra Conroy-Harris

It does it.

00:07:05 Alexandra Conroy-Harris

If you're focused on just getting the order or just getting the child, you know, just having the child removed from the situation.

00:07:12 Alexandra Conroy-Harris

Then there's a lot of pressure on the lawyers to agree to that small change in the care plan.

00:07:19 Alexandra Conroy-Harris

And they pass that pressure on to the social worker.

00:07:22 Alexandra Conroy-Harris

They're not looking at the wider picture. I think that's probably true even if you're just dealing with local authority lawyers. But it's particularly true if you're then if you're an independent barrister instructed as well.

00:07:33 Alexandra Conroy-Harris

Because they will have even less of the originating information and background on which the decisions have been made. Well, yes, it does end up feeling bit like there can bargaining chips.

00:07:44 Alexandra Conroy-Harris

With contact, maybe that might might be a minor adjustment, but there might be good reasons.

00:07:48 Alexandra Conroy-Harris

Why there's there has.

00:07:49 Alexandra Conroy-Harris

To be a major adjustment, perhaps for the child.

00:07:52 Alexandra Conroy-Harris

Seeing another family member on the 4th occasion when there's an available contact slot or the child has after school activities is really important for them to maintain, so they're not. They're not too disrupted and those are things which the social worker and children services will.

00:08:09 Alexandra Conroy-Harris

Considered and decided on setting their care plan. I think one of the really important ones where it can make might make a huge difference with child's life is where there's been decision for early permanence and it can be fairly obvious that the child needs to be removed from the family home.

00:08:29 Alexandra Conroy-Harris

And then the local authority, they have legal duty to consider early permit.

00:08:34 Alexandra Conroy-Harris

Once, if they've done that and decided that, yes, this is a child who may in the end be adopted, and if that is the case, it's in their interests to have just one placement throughout the whole time, the care proceedings, then their care plan could be for an early permanent placement. Often you do get guardians, you almost never get parents.

00:08:54 Alexandra Conroy-Harris

Who are petrified by that idea because they think it means that child is almost certainly going to be adopted and.

00:09:01 Alexandra Conroy-Harris

They will say yes. We'll agree to the child or in the courts, we'll say, well, we can agree to an infant care order, but we don't think that it's the child to replace an early permanent placement and that pressure will be put back down down the chain to children services and actually it it's not something that they should be giving in to because the decision has been made.

00:09:21 Alexandra Conroy-Harris

That if the child eventually becomes doctors. It will be hugely beneficial to them not to have moved placements throughout the currency of care proceedings. And it's not something that anybody can get in order to prevent doing. There's just pressure.

00:09:39 Jane Poore

It's hard, though, for social workers, isn't it? Cause we know that there's a lot of turnover of staff in frontline social work at the moment.

00:09:45 Jane Poore

You know that that they may be younger or they may be newly qualified or and gone are the days where your manager used to go with you all the time to court it. It may be that the social workers, they're on their own and and it's difficult, isn't it and how that turnover of staff is that now impacting the legal teams as well.

00:10:05 Alexandra Conroy-Harris

I think it does in two ways. Firstly, that sometimes, especially there's a high turnover of staff or cases moved around from different teams.

00:10:15 Alexandra Conroy-Harris

A lawyer can feel that they're the only one who's actually followed the case all the way followed that trial through. And so they have some authority to make decisions or to agree certain course of action with other parties and the newly arrived social worker doesn't know the case as well they have.

00:10:32 Alexandra Conroy-Harris

Another source of pressure, But also I think you're finding that you know, there aren't as many long service lawyers as there used to be across the whole legal sector, the number of childcare lawyers is there aren't many in private practice, moving into local authority practice. They're all reaching a certain age of retiring.

00:10:52 Jane Poore

The relationships aren't built up how they used to be because they used to be that those long-term social workers who knew that legal team and those relationships were.

00:11:03 Jane Poore

So they they trusted in each other's judgements and respected each other's practises, and those relationships have shifted. So there might be people that you've never met before.

00:11:13 Alexandra Conroy-Harris

Well, there was always that possibility, especially if you're instructing. Yeah. Instructing council. Yeah. And they're not always the same people. They're not always in the same chambers.

00:11:23 Alexandra Conroy-Harris

And so there are times when you need to fall back on the formal client lawyer relationship and rather than the sort of common purpose that there might have been if you're working a lot with the same lawyers and the same social workers, but regardless of whether you've only just met them months, you've been working with them for 10 years, it's still children's services which give instructions to the lawyers.

00:11:29 Jane Poore

OK. Yeah, yeah.

00:11:47 Alexandra Conroy-Harris

And the lawyer's job is to workout a lawful way of achieving what children services have decided is in the best interest of the child, not to suggest alternative outcomes for the child. Yeah, it's just alternative legal frameworks because that's their job. That's, you know, it's somebody saying we want this child to remain in this placement, but foster care is no longer approved.

00:12:07 Alexandra Conroy-Harris

Foster care is no longer approved. Then it's a lawyers job. So well, you can make it. You can make that placement by child arrangements order.

00:12:23 Jane Poore

Yeah, because there are some situations where the local authority or the Children's Service Department may feel it necessary in the best interest of the child do for example, have an unlawful placement?

00:12:25 Alexandra Conroy-Harris

Yes, I think we've all come across those situations, particularly red 24 kinship carers who haven't been approved as foster carers, but at the end of the proceedings there's a fairly high chance that an older special guardianship order will be made and the child will remain there.

00:12:46 Alexandra Conroy-Harris

So moving the child for.

00:12:50 Alexandra Conroy-Harris

Maybe one or two weeks until the final hearing is not going to be in the child's best interest. Put them into different foster care or whatever, but leaving them there without going back to court and and achieving different legal framework is unlawful and it's for the lawyers to advise that is unlawful, that it's not something which should be happening unless.

00:13:10 Alexandra Conroy-Harris

It can be fixed in with an alternative legal framework, in which case that's something for them to suggest, but it's actually children Services Department will make the decision about whether or not the child should remain there, but they do need to be fully aware of the legal implications of that, and if it's something which does carry a high risk .

00:13:28 Alexandra Conroy-Harris

If the carers have been turned down as foster carers for something which really shows the child shouldn't be placed there. Then the lawyers have the option of taking the case. The monitoring officer, somebody in the legal department, usually head of legal, who whose job it is to make sure the local authority doesn't take any course of action in any sphere that could cause.

00:13:48 Alexandra Conroy-Harris

Significant reputation or financial risk and so they they have that lever to pull. If if something is being done unlawfully at great risk. Usually it's something which doesn't carry a huge level of risk yet, but they still need to know the.

00:14:03 Alexandra Conroy-Harris

The the legal framework is there and there are alternative legal frameworks that, that might be possible, but if you if a lawyer as a lawyer, you've given all the advice about alternatives about the unlawfulness of a placement or the unlawfulness of course of action. It's still for children services to make the decisions about whether to whether or not to pursue it.

00:14:23 Jane Poore

And the other scenario where I think we heard as we were you referred to training agents and decision makers around the country. I think something that came across in particular were the time scale pressures and people being asked to make an agency decision for a child in in respect of adoption in 48 hours or.

00:14:48 Jane Poore

Carry out of viability of a potential career within 10 days or two weeks, or all of which seem very short time scales for carrying out things which have huge impact on the child and are potentially life changing decisions and it seems wrong not to be able to give them those considered and reflected decisions. When you're doing those pieces of work. And yet we know that social workers are put under huge amounts of pressure to go away and get an agency decision or go away and carry out a viability and come back in you know, 20 days.

00:15:29 Alexandra Conroy-Harris

Yes, I think that's something that can be really difficult because often the social worker is in court. Yes, is not the social worker who's going to be carrying out the viability assessment. They're not going to be the agency decision maker. So they're being asked to agree to something which they haven't had the opportunity of fully considering. And they get, they are getting that.

00:15:49 Alexandra Conroy-Harris

If you do get that pressure, the judge is putting the judges are under pressure, the judges have got this target of 26 weeks.

00:15:55 Alexandra Conroy-Harris



And they're being put under a lot of pressure to try and to try and meet that target. And the president's guidance at two years ago made it very clear that you should have 12 weeks to carry out an assessment.

00:16:05 Alexandra Conroy-Harris

And potential special guardian that made a difference for a bit. But again, they're trying to balance that guidance against the pressure they're under.

00:16:15 Alexandra Conroy-Harris

To get cases heard within 26 weeks, and that's not always compatible. So they're putting pressure on the lawyers in front of them to agree on behalf of the local authority that things should be done on a much tighter time scale.

00:16:27 Alexandra Conroy-Harris

And quite often you'll get the lawyers saying, well, I'm sure that's alright and just turning around and social work and saying that's the right isn't.

00:16:32 Alexandra Conroy-Harris

That and you, you're not given that chance to have discussions. You again. It's a confidence thing for social workers to be able to say. I can't make that decision. I can't allocate that person. I can't tell you about the DM's timetable. We have to have 5 minutes and it's always open for to a lawyer in court to say please. We have 5 minutes to take instructions.

00:16:54 Alexandra Conroy-Harris

And you can go out. Of course you can make phone calls. You can get the support you need from your manager. You can get to the information that would enable that decision to be made properly.

00:17:03 Alexandra Conroy-Harris

Is there somebody who could you chop two weeks off an assessment? Is there somebody who's actually unexpectedly available and start tomorrow? Yeah, and get that time together. It's it's possible. But you can't say. Yeah. OK, we can reduce it to just because you're being asked to. Do you know, we have to find out.

00:17:18 Jane Poore

Yeah. So what it comes back to is the social workers having the confidence in their own plans that they're actually asking the lawyers to put into practice. Do you think?

00:17:28 Alexandra Conroy-Harris

And their organisation and the way which things are done.

00:17:31 Jane Poore

So, have confidence in their own procedures as well, yes.

00:17:34 Alexandra Conroy-Harris

Yes, and it's it. There's something about the court arena which which really sucks, that if somebody walked in off the street into a social work office and said we need an assessment done within six weeks, yeah, the social worker sitting on the front desk on duty that day.

00:17:52 Alexandra Conroy-Harris

Not going to say, Oh yes, I can allocate somebody to do that. But somehow sitting in court if the judge says we want somebody to do that within six weeks, that social worker is expected to make that decision, they'll steal it. We've got somebody free. We can do that. Yeah. We'll be able to get all the text.

00:17:58 Jane Poore

Yeah, yeah.

00:18:07 Alexandra Conroy-Harris

Back in time. Yeah. And and it's it's.

00:18:10 Alexandra Conroy-Harris

Simply not the case, just just being in court.

00:18:13 Alexandra Conroy-Harris

Doesn't mean you have to take the decision in a different way without the same sort of thought and examination that you would in any other resource. And yes it it their pressured environments.

00:18:24 Alexandra Conroy-Harris

And the lawyers are guilty of putting, you know, they they put pressure because they're focused on the outcome for today, whereas children services have to be focused on the outcome for the the whole child, for their entire journey through the care system.

00:18:38 Jane Poore

That's a really good way of putting it there that you shouldn't change your decision just because you're actually in a court hearing despite those pressures.

00:18:46 Alexandra Conroy-Harris

I think we're all we're all guilty of doing that. We're actually we're in a slightly different way in court we do.

00:18:51 Jane Poore

Thank you very much, Alexandra. It's a good conversation.