



Press release

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## **Landmark judgment rules that Local Authorities can face legal action if they fail to protect vulnerable children**

### **Abuse law experts say judgment provides protection for victims and legal clarity for councils**

A landmark judgment handed down today has ruled that local authorities can be held legally accountable if they fail to protect vulnerable young people and children in their area who are considered to be at risk, regardless of whether they are officially in care.

A previous Court of Appeal decision which gave Social Workers exemption from liability in cases where children who are known to social services are harmed was also overruled.

In the judgment which was handed down at the Supreme Court in London this morning, the argument that defensive social working decisions would be made if they were afraid of civil liability was found to be outdated and disapproved of, and that Social Workers could be found to owe children a duty of care to protect them from harm even when they are not the subject of a formal care order.

The ruling has today been welcomed by leading solicitors at Simpson Millar who represented two charities involved in the litigation. The outcome means that claims for compensation can be brought against local authorities who fail to investigate and take action to protect children at risk of possible sexual, physical or emotional abuse and neglect.

Peter Garsden, a Partner at the firm, said that following the conclusion of the legal action many abuse and negligence cases against local authorities that were put on hold pending a decision would now be able to progress - providing 'much comfort' to the victims, as well as clarity for local authorities with regards their duty of care.

He continued: "This is a ground-breaking decision that has served to clarify the law as far as the duty of care that social workers have towards young people and children who are not necessarily in a care institution, but are known to be at risk.

"Whilst this case has been ongoing many other cases were put on hold, and there were grave concerns that the law could regress significantly – taking us back to an era when Social Workers were given exemption from blame, and leaving victims with little reassurance that everything possible was being done to protect them from harm.

"Thankfully the law has been restored to what it was and there is now liability for negligence on the part of Social Workers and others working for the Local Authority in the childcare context.



“This decision affects some of the most vulnerable members of our society and we are delighted that those affected will continue to have access to the justice that they deserve in instances where they are let down by those they have put their faith in.”

The decision follows a UK Supreme Court hearing which took place last July relating to a case in which Poole Borough Council was accused of failing to protect two children in the care of their mother from the antisocial behaviour of neighbours; whilst also putting the role of all Councils in the protection of those living within its geographic footprint under scrutiny.

Simpson Millar represented Article 39 and The Care Leavers’ Association during the hearing; both of which acted as interveners in the case amidst concerns about the wider ramifications of local authorities not being held accountable for a failure to protect.

The charities felt the need to intervene in the case in order to draw attention to the ‘terrible impact’ that abuse can have on children; claiming that it was ‘incomprehensible’ that a local authority would not face the legal consequences for not doing enough to prevent abuse and neglect to young people in care.

Carolyn Willow, Director at Article 39 – a charity that fights for the rights of children and young people who live in children’s homes, prisons and other institutions - said: “We are incredibly relieved that the Supreme Court has reinstated the potential for children and young people to bring negligence claims against local authorities who have failed to protect them from harm.

“We are particularly concerned about the continuing scandals of mistreatment in child prisons and local authorities’ failures to take robust, protective action.

“Just this week inspectors have reported that children in Oakhill secure training centre and Feltham young offender institution have been inflicted with pain-inducing restraint techniques which the Independent Inquiry into Child Sexual Abuse has condemned as a form of child abuse.”

David Graham, National Director of The Care Leavers Association – a charity that provides supports care leavers of all ages - said: “A court ruling that a local authority had a duty of care and acted negligently can give care leavers a real sense of justice and vindication, as well as financial compensation for harm that should never have happened. We hope the courts will now quickly deal with the backlog of cases from adults who were failed as children.”

Oliver Studdert, children’s rights specialist and Partner at Simpson Millar, said “This judgment crucially confirms that victims of abuse and failures by local authorities can continue to seek redress through the courts. Often for our clients, obtaining recognition of failures by those who should have been protecting them is a very important stage in the process of moving on from what has happened.”

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