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New family court reporting rules are unclear and will put privacy of vulnerable children at risk

New legislation to relax the restrictions on media reporting of family court cases lacks sufficient clarity about what can be reported and could put the privacy of vulnerable children at risk, according to a new briefing paper published by the Department of Social Policy and Social Work at the University of Oxford, and funded by the Nuffield Foundation.

Family policy experts urged greater scrutiny of the proposals, which they say are being rushed through Parliament without adequate public consultation and before alternative options for making family courts more open and accountable have been explored.

New rights

The proposals are part of the *Children, Schools and Families Bill*, announced in this year's Queen's Speech, and will allow journalists to report the details of family court proceedings for the first time. The media were given access to family courts in April this year, but are not currently allowed to report the details of individual cases – only the process.

The proposed legislation will be implemented in two stages. The first stage will allow journalists to report most details of individual cases they see, unless a judge restricts publication, but information including the identities of the parties involved and 'sensitive personal information' could not be reported unless a judge agrees. Journalists will also be allowed to name expert witnesses if they have been paid to give evidence. These rules will not cover some matters to do with divorce proceedings, which are already more open, and the final stage of adoption proceedings, which will be closed.

Implementation of the second stage would enable journalists to report 'sensitive personal information' about the parties involved in a case. The criteria used by judges to decide whether to apply reporting restrictions will be relaxed, making it more difficult to restrict reporting in the interests of the child. The Government also plans to amend the law so that journalists can name all expert witnesses.

The Bill will shortly be debated in Parliament for the first time when it receives its second reading.

Invasion of privacy

Under the new proposals, journalists will not be able to report information that could compromise a person's anonymity, but they **will** be able to report details of people's private lives; if the local community is aware a court case is underway, publishing this information could identify parties in the case even if a name is not published in the wider media.

Following implementation of Stage 2, the press may be able to report the private views put forward by children, as well as report details of medical and psychiatric information about children or adults involved in family court cases.

The briefing paper's authors, Robert George and Ceridwen Roberts from the University of Oxford, highlight the lack of clear guidance in the Bill about what constitutes 'identifying information', and argue lack of adequate protection of privacy may violate people's right to respect for their private lives under Article 8 of the Human Rights Act 1998.

“Under these changes we could see very personal details of vulnerable children and adults published in local and national newspapers and online. Journalists will not be able to name children and families, but that will not necessarily prevent them from being identified,” Mr George said.

Openness and transparency

The Government’s stated goal in introducing this legislation is to increase the openness and transparency of family courts, but the evidence from countries such as Australia and New Zealand does not show that allowing greater media access will achieve that goal.

Alternative options to provide greater openness and accountability in the family courts have not been fully explored. One such alternative is the publication of anonymised family court judgements, currently being piloted in Leeds, Cardiff and Wolverhampton.

“Publication of anonymised judgements could offer a balance between allowing greater scrutiny of the process whilst protecting vulnerable children and families, so it is not clear why the Government is rushing through this legislation rather than waiting for the results of its pilot study,” Ms Roberts said.

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Notes to Editors

1. *The Media and the Family Courts – key information and questions about the Children, Schools and Families Bill* by Robert H George, Lecturer in Law, and Ceridwen Roberts, Senior Research Fellow, is published by the Department of Social Policy and Social Work at the University of Oxford.

2. Part 2 of the Children, Schools and Families Bill relates to Family Proceedings. Details of the Bill are available on the Parliament website <http://www.publications.parliament.uk/pa/cm200910/cmbills/008/10008.i-iii.html>

3. The report was funded by the Nuffield Foundation, but the views expressed are those of the authors and not necessarily the Foundation. The Nuffield Foundation is a charitable trust with the aim of advancing social well-being. It funds research and social experiments, predominantly in social policy and education. More information is available at www.nuffieldfoundation.org