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More family cases go behind closed doors

Frances Gibb

Thousands of children's care cases will be heard behind closed doors under proposals from the Lord Chancellor yesterday that extend courts' powers to exclude the media.

In a significant about-turn, Lord Falconer of Thoroton ditched earlier plans to give the media a right to attend family courts after opposition from children and children's organisations. He admitted that he had changed his mind about opening up the courts, as outlined last year.

But he insisted that this would allow more and better information to emerge and that it would better protect the interest of children and the public.

In addition, instead of opening up the county courts and High Court, which operate largely behind closed doors in children's cases, he outlined plans to bring consistency across all courts, including closing magistrates' courts. However, magistrates and judges will have power to allow in the media, on application.

Lord Falconer said yesterday: "I have listened to the views of children and young people. The clear message was that the media should not be given an automatic right to attend family courts as this could jeopardise children's rights to privacy and anonymity."

The new approach would improve information coming out of courts rather than "concentrate on who can go in", he said.

Lord Falconer lodged details of his amended proposals in Parliament yesterday, prompting a three-month consultation period ending on October 1.

After that, some of the changes will be introduced by order, while others will require legislation in Parliament.

A pilot scheme will be conducted to assess the impact of the new rules on those affected.

Media ban: Lord Falconer

Courts that decide the fate of broken families must be held in secret, the Lord Chancellor has ruled.

Lord Falconer crushed an attempt to open the proceedings to public scrutiny and declared that "children's right to privacy" comes first.

In a document called Openness in the Family Courts - A New Approach, he proposes even tighter restrictions on what can be said about family cases.

The clampdown is in direct contrast to the views of his own Minister of State Harriet Harman and comes amid concern over decisions taken in family courts.

Last year the Daily Mail highlighted the way a couple in Essex had their children taken from them after courts held in secret decided they were too intellectually slow to bring them up - even though no harm had come to the children.

An academic study later found that such families were being singled out by social workers and should instead be given support.

Torn apart: The Essex family, with faces hidden to protect their identity

And a High Court judge last year found that family courts had allowed social workers to take a nine-year-old girl from her family "on a whim". A court ordered the girl to be taken into care on the basis of 13 false assertions by a social services manager.

The document provoked anger from fathers' protest groups which have campaigned against secrecy, saying it hides bias and incompetence.

Families Need Fathers, the pressure group that has co-operated with ministers to try to end what it says is bias against men, said its views had been ignored. Secrecy, it added, would undermine confidence in the courts.

A spokesman for high-profile Fathers4Justice said: "To have secret justice in a 21st century democracy is a disgrace and goes against everything we are supposed to believe in.

"The family courts are not just a closed shop - they are more like something out of North Korea. The way they work means parents have fewer rights than terrorists."

The Ministry of Justice under Lord Falconer's leadership has ordered the family courts to remain closed and proposed that coroners should get new powers to keep the media out of their courts.

It also established a new Court of Protection to rule over the lives of the dying and incapacitated which will make life- or- death decisions behind closed doors.

But an attempt by the ministry to restrict the Freedom of Information Act through stiff costs and limits is likely to be blocked by Gordon Brown when he becomes premier next week.

Lord Falconer's decision to maintain secrecy in the family courts was a humiliating reverse for Miss Harman. Last year she said that, because of public disquiet, the courts should be open to reporting by accredited members of the media.

But the Lord Chancellor said yesterday: "I have listened to the views of children and young people. The clear message was the media should not be given an automatic right to attend family courts as this could jeopardise children's rights to privacy and anonymity."

He gave weight to a survey of 200 children in which those asked said they feared being reported in the media. The Lord Chancellor said children worry about "people who live in their neighbourhoods finding out about how the courts have dealt with their family".

He also took into account the views of those who "protect, support and represent" children, such as lawyers and heavily State-funded charities such as the NSPCC and the National Children's Bureau.

The consultation paper from the Ministry of Justice yesterday says courts should remain closed but judges should in some cases release anonymous transcripts of cases. The document said media representatives could apply to be allowed in to specific cases.

But the courts should stay closed because organisations such as the NCB believe newspapers and broadcasters are irresponsible and will concentrate on celebrity cases.

Family hearings held in magistrates' courts, which are currently open to the public, will be closed in future, the paper said. It recommended setting up websites to explain how the courts work.

Critics questioned the right of the NSPCC and NCB to have their view given precedence as they take almost £20million from the State.

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The government has promised to improve openness in Family Courts, but said it will still protect the privacy of those involved.

Ministry of Justice secretary Lord Falconer unveiled proposals designed to improve transparency in the Family Courts system.

However, the recommendations were criticised by some campaigners for not going far enough to hold social workers and officials to account and barring parents from discussing their case.

Lord Falconer said it was important to protect the privacy of those involved in the Courts, including children.

He said: "Family courts make far-reaching decisions which permanently affect the lives of the people involved. Where children are involved, their welfare must be of paramount importance.

"We will focus on providing better information about family proceedings to the public. In certain cases we will give more information to the people involved in proceedings, including to adults who were involved in family proceedings when they were children."

After meeting with children, Lord Falconer claimed many are concerned the media should not have an automatic right to attend Court hearings to protect their privacy and anonymity.

Reforms will therefore focus on the information coming out of courts, rather than who can go in.

In a pilot scheme, courts will provide more information on how they reach decisions, including for people who went through the system as children.

In extreme cases, for example if a child is permanently removed from their parents, courts will consider releasing an anonymous transcript or summary.

The Ministry of Justice will also create a new information hub providing people with simple information on Family Courts and what they do.

Campaigners complain, however, that the reforms do not go far enough and do not protect parents against a miscarriage of justice.

John Hamming MP, chairman of Justice for Families, said the proposals risked increasing secrecy in Family Courts and do not allow parents to campaign against decisions.

Mr Hamming said: "The government is actually proposing more secrecy in family court proceedings than exists at the moment.

"There are clearly masses of miscarriages of justice. However, the government wants to prevent parents campaigning against the miscarriages of justice by preventing parents talking about their children after a court case."

He alleged babies are taken into care to meet adoption targets and the government's response is to mould the system to stop people complaining about it.

"The secrecy in the Family Courts acts generally to protect misbehaviour by some professionals rather than children," Mr Hammond concluded.

Campaign group Families Need Fathers also claimed the proposals do not go far enough and will not restore public confidence in the Family Courts system.

Government backs down on media access to family courts

Proposals to give the media the right to attend family courts are scrapped following opposition from childrens' organisations

Times Online and PA

Lord Falconer of Thoroton, the Lord Chancellor and Justice Secretary, today backed down on proposals to allow journalists to attend family court hearings in the wake of opposition from organisations representing the rights of children.

The idea was floated by the Government last year as a way of putting a stop to claims that the courts are secretive, particularly in cases in which children are taken into care or custody is granted to one parent.

Protesters from Fathers4Justice called for the press to be allowed to expose what they claim are miscarriages of justice denying fathers access to their children.

But a consultation exercise revealed strong opposition from organisations such as the NSPCC, the Children's Commissioner and lawyers representing children, in addition to 200 young people who took part.

Their message was that having reporters in court would increase anxiety for children and parents.

Lord Falconer, QC, today put forward alternative proposals to make family courts more open by requiring judges to provide more information about how they came to their decisions.

Under the new measures, parents will be provided with written explanations of courts' decisions, which will be kept by the court and made available to the children involved when they grow old enough to understand them.

And in cases of public interest, transcripts or summaries of cases will be provided to the media, after removing any information which could identify the child involved.

Lord Falconer said: "I have listened to the views of children and young people. The clear message was that the media should not be given an automatic right to attend family courts as this could jeopardise children's rights to privacy and anonymity.

"We need instead a new approach which concentrates on improving the information coming out of family courts, rather than on who can go in."

Under the new rules, reporters will be able to apply to attend family court hearings or to receive written summaries of cases, but the decision will rest with the judge. The same will apply to family proceedings in magistrate's courts, which are currently open to the press in most cases.

Lord Falconer today lodged details of his amended proposals in Parliament, prompting a three-month consultation period ending on October 1. Following that, some of the changes will be introduced by

order, while others will require legislation.

A pilot scheme will be conducted to assess the impact of the new rules on those affected.

Jeremy Abraham, head of family law at Russell Jones and Walker, said: "This is a better idea than throwing open the domestic courts to the public. If it happens, it will encourage appeals unless judges take greater care than they do now.

"Although judgments are routinely tape-recorded, transcripts are not usually provided unless an appeal is seriously contemplated. If judgments are always transcribed, I expect many more appeals, given the tendency to disagree when seeing a judgment 'in black and white'."

<http://business.timesonline.co.uk/tol/business/law/article1960763.ece>

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