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*The Law and Changing Relationships*

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Family Law and Social Change: Young People, Stepfamilies and The Law

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Presentation – 2 parts: total 20 minutes

## **PART ONE**

### **Introduction**

By the year 2010 it is anticipated that there will be more stepfamilies in Britain than any other family form. The structural make-up of stepfamilies and the inter-relationship of issues affecting them is very complex, involving lateral and multigenerational relationships. Stepfamily Scotland works to support both members of stepfamilies and those professionals involved in stepfamily issues. The aim of this session is to both look at specific work we have undertaken with young people and the ways in which stepfamilies are a challenge to the law.

### **Stepfamilies and Young People**

As a direct outcome from issues brought to our helpline we sought and obtained funding from BBC Children in Need, a nation wide charity fund, to seek the views and needs of young people involved in stepfamilies.

One of the principal objects of the project was to ensure that as a pilot exercise it reflected as much as possible a full representation of young people and the geographic and demographic make up of Scotland. For this reason key and committed professional contacts in each of the areas involved was very important.

The selection of geographic areas was based on a pattern of need which had emerged through the helpline and local professional networks were approached to establish direct contact with young people. Over the period of the project between 1998 and 2000 seven groups of young people totalling forty participants were directly involved. In addition contact with local professional workers drew on indirect input from up to fifty more.

The direct focus groups were made up as follows:

- One of young mothers
- Three of mixed sex
- One girls only
- One mixed sex with profound hearing disabilities
- One mixed sex in supported accommodation

The average age of participants was fifteen with the youngest being twelve and the eldest nineteen. Lengthy attempts to access a group of wider ethnic composition did not prove possible in the timescale available.

The aim of the work of these focus groups was to explore perceptions and assumptions around stepfamily issues for young people and to look at what would help to inform them in making choices affecting them. The methodology and safeguards employed with each group were in line with received guidelines for this type of research.

The format and structure of each session was agreed in advance with the participants for consistency and case studies were used to prompt and focus discussion.

### **Key Outcomes**

The case studies prompted thoughtful and engaged discussion with some strong views being expressed. Individual members of the groups had not been approached on the basis of necessarily having experience of stepfamily life, but as young people with a relevant view. In practice it was found that nearly all of those involved were either in or had been in some form of stepfamily. The confidential nature of the group work assured participants that there was no pressure to refer to personal circumstances but it was significant that there was little hesitation in talking about the personal – in fact the opportunity was welcomed. The range of these circumstances which emerged accentuated the endless complexities of stepfamily structures for young people.

#### ***Broad points of significance which emerged from the exercise included:***

- Lack of ability and support from 'professionals' of all types to take on board family life the way it is – young people being 'fed up' with having to justify a family situation in which they find themselves as it does not have any apparent status.
- Inadequacies of the school system to work with complex family relationships, especially around different names and the status of parental consent.
- The constant shadow of exclusion from the 'norm' with fall-out resulting in children from stepfamily backgrounds spending time in cared for accommodation.
- Everything around names and identity.

#### ***Particular points which arose included:***

- Children should be told what the 'real' relationships are in stepfamilies
- Non-blood relationships can be very positive
- All adults in the stepfamily make-up should be involved in resolution of major issues for the children, regardless of their own disputes

- Young people should be fully consulted on changes in stepfamilies which affect them and have access to realistic choices
- If they love you does it matter if your parents are 'real'
- Adults often have difficulty in handling situations with young people and put undue responsibility on to the young person

Summarised by some as:

Stepfamilies are where children are expected to act as adults and adults act as children.

### **Conclusion to Part 1**

The message from all the young people who took part in the project have been very clear and to the point. They live in the real world where families are complex and constantly changing and what they are looking for is to be heard, accepted and supported in their view of the situations in which they find themselves.

Stepfamily Scotland is fortunate to have received further funding to take this pilot forward over the next two years.

## **PART TWO**

### **The Case For Extending Parental Responsibilities To Stepfamilies By Agreement**

This work with young people has a number of implications. One relates to the structure of family law. Scottish family law was last revised in the Children (Scotland) Act 1995. The new Act introduced a focus on the responsibilities of parents for their children. However the law continued to be based on a 'traditional' family. Certain assumptions underlie the legal structure:

- Children will usually be cared for by birth parents.
- If birth parents cannot care for a child then the law should provide for a full substitute, in the form of an adoptive parent.
- Sharing of parental responsibilities short of adoption will generally take place in acrimonious circumstances, which justify resort to a court to determine disputes.

A stepfamily defies these assumptions. A child in a stepfamily has an adult carer who is not related by birth. Both birth parents, as well as a stepparent, may have a valued role in the child's life. There may be tensions but there is not necessarily any active dispute.

In a stepfamily there is an adult with practical care, who has no legal responsibilities or powers. This can cause difficulties, for example, that adult:

- Can collect the child from school, but could not authorise a school outing
- May arrange a medical appointment, but may not be in a position to give consent to a vaccination.

The child may look to that adult for advice, but the adult has no responsibility for giving guidance. If family relationships break down that adult may have continuing significance, but no rights and responsibilities to keep in touch.

Work with stepfamilies indicates that the law should recognise complex family structures particularly in cases where there is a large measure of harmony between those involved.

In Scotland there is an existing facility to make an agreement which has full public recognition of the same status as a court order. This involves registration in a public record (the Books of Council and Session). It is not usually possible to confer parental responsibilities and rights by agreement. Scotland is now considering introducing legislation for stepfamily agreements. Such agreements would allow birth parents to share parental responsibility for a child with a stepparent, without going to court. An agreement of this kind would give a stepparent full responsibility for a child and the rights necessary to fulfil that responsibility.

The idea is still being tested in public debate. A number of anxieties have been expressed:

- Children who are sufficiently mature to express a view should have that view taken into consideration. It would be generally consistent with Scots law to give young people of 12 or over a veto on such agreements.
- If there is only one parent with responsibility for a child, should that parent be able to act alone and to confer responsibility on a spouse? Where there are two parents there may be a greater safeguard against unsuitable arrangements.
- Should there be a filter of some kind for unsuitable arrangements, and how could that be put in place?

There are difficulties with the concept of stepparent agreements, but such agreements have the potential to bring considerable benefits. They would represent one of the first attempts to recognise and legislate for stepfamilies as complex entities in their own right, rather than as emulations of a traditional family structure.

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