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Family Law Newsletter

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Sarah's Law

The Government has announced that they are planning to roll out the so called "Sarah's Law" nationally, which allows parents to check whether those who regularly care for their children are convicted sex offenders.

This decision has followed successful pilot schemes in four areas including Cambridge which gave parents and carers controlled access to the Sex Offenders Register.

A disclosure is only made to parents and others with a direct interest in a child about a carer who has regular unsupervised access and the police and probation service will consider each individual request.

The Shadow Home Secretary, Chris Gayling has confirmed that the Conservatives would also roll out the scheme and it therefore looks likely that whichever party wins the next election the scheme will be rolled out nationwide.

RESIDENCE – child's best interest

The recent case of Re B (a child) saw a maternal grandmother win an appeal against a decision to transfer the residence of her grandson, who had lived with her since birth, to the child's biological father.

The child was 4 years old in December 2009 and until recently, apart from weekends, lived continuously with his maternal grandmother. The grandmother was originally granted a Residence Order in respect of her grandson in November 2006. In March 2009 Lowerstoff Family Proceedings Court made a further Residence Order in favour of the grandmother and granted contact including staying contact to his parents. The child's father and a High Court Judge ordered that the Residence Order should be transferred to the father.

The grandmother appealed the decision and the Supreme Court unanimously allowed her appeal. It reaffirmed the position in the previous case of Re G that, where in a case between private individuals, a child's custody or upbringing is in question, the welfare of the child is the paramount consideration.

There was no issue over whether the proposed care by the father would be "good enough". The Court's task was to determine what was in the best interests of the child, not what might constitute second best but supposedly adequate alternative.