*PRESS RELEASE – CARDIFF UNIVERSITY*

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**‘Family court transparency plans fall short as judges struggle to find time to publish judgments safely’**

New research from Cardiff University’s School of Law and Politics suggests that guidance given to judges to routinely publish their judgments is not being consistently followed, leaving the public with a patchy understanding of the family justice system in England and Wales.

Issued in 2014, the guidance was intended to address perceptions, especially in the media, of ‘secrecy’ and ‘justice behind closed doors’ when important decisions are made about children in family courts. These claims arise from the way that court rules ensure most family cases are held in private, to protect children and other vulnerable parties, and are subject to reporting restrictions preventing such parties being identified.

The guidance requires judges to send fully anonymised versions of their judgments in certain types of case to BAILII, a freely accessible legal research website. The intention was to enable both the press and the public to have a better understanding of the family justice system, by making it more transparent.

However, following concerns expressed about poor anonymisation and some risks of jigsaw identification, and also observations that relatively few cases seemed to be appearing on BAILII, an evaluation of the effects of the guidance was undertaken by Cardiff University’s School of Law and Politics, funded by the Nuffield Foundation.

Analysing 837 judgments that were published in the first two years following the guidance, the research found that only 27 judges and 12 courts sent in more than ten cases each to BAILII during this period, revealing significant local variations in following the guidance. As a result, the media and the public are able to read more about judicial and social work decision making in certain parts of England and Wales than others.

Dr Julie Doughty, Cardiff University’s School of Law and Politics, who led the research said:

“The judgments now published provide more information about the role of the family courts than was available prior to the guidance, but there are inconsistences in the way courts have responded which can present a confusing and not necessarily representative picture of the system as a whole.”

The research team also gathered views from some judges, journalists, organisations and representative groups with an interest in family justice, about the operation of the guidance and the effect it has had on them and on public understanding of family courts.

Dr Doughty added: “The overwhelming message we received in this study was that judges’ workloads, and lack of administrative support, did not allow them the time they needed to write clear, useful and safely anonymised judgments for publication that they could feel confident had minimised any risk of identifying the children and families involved.”

The publication of this report is timely, in the context of a senior family court judge recently emphasising the importance of public legal education and making family court processes more transparent, thereby reducing complexity and time spent on cases at later stages, as well as improving access to justice.

**The report, *Transparency through publication of family court judgments: An evaluation of the responses to, and effects of, judicial guidance on publishing family court judgments involving children and young people,*** by Julie Doughty, Alice Twaite and Paul Magrath, is available to read in full [here](http://orca.cf.ac.uk/99141/).

**NOTES FOR EDITORS**

1. The Nuffield Foundation is an endowed charitable trust that aims to improve social well-being in the widest sense. It funds research and innovation in education and social policy and also works to build capacity in education, science and social science research. The Nuffield Foundation has funded this project, but the views expressed are those of the authors and not necessarily those of the Foundation.
2. Cardiff University is recognised in independent government assessments as one of Britain’s leading teaching and research universities and is a member of the Russell Group of the UK’s most research intensive universities. The 2014 Research Excellence Framework ranked the University 5th in the UK for research excellence. Among its academic staff are two Nobel Laureates, including the winner of the 2007 Nobel Prize for Medicine, University Chancellor Professor Sir Martin Evans.  Founded by Royal Charter in 1883, today the University combines impressive modern facilities and a dynamic approach to teaching and research. The University’s breadth of expertise encompasses: the College of Arts, Humanities and Social Sciences; the College of Biomedical and Life Sciences; and the College of Physical Sciences and Engineering, along with a longstanding commitment to lifelong learning. Cardiff’s flagship Research Institutes are offering radical new approaches to pressing global problems. [www.cardiff.ac.uk](http://www.cardiff.ac.uk)
3. The judicial guidance on transparency issued by Sir James Munby, President of the Family Division, in January 2014 is posted on the Judiciary website at: <https://www.judiciary.gov.uk/publications/transparency-in-the-family-courts/>
4. The British and Irish Legal Information Institute (BAILII) provides access to the most comprehensive set of British and Irish primary legal materials that are available for free and in one place on the internet. BAILII is legally constituted in the UK as a company limited by guarantee (No 4131252) and as a charitable trust (registered charity no 1084803) and has been supported by a number of major sponsors and is assisted by many other organisations and individuals. BAILII is hosted in the UK and Ireland by the Institute of Advanced Legal Studies, London and the Law Faculty, University College Cork. <http://www.bailii.org/>
5. On 9 March 2017, Sir Andrew McFarlane, Lord Justice of Appeal, delivered the inaugural Bridget Lindley OBE Memorial Lecture in London: ‘Holding the risk: The balance between child protection and the right to family life’. One of the topics he covered was transparency in family justice. The lecture can be downloaded from the Judiciary website [here](https://www.judiciary.gov.uk/announcements/the-inaugural-bridget-lindley-annual-memorial-lecture-holding-the-risk-the-balance-between-child-protection-and-the-right-to-family-life/).
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