

# Couple with learning difficulties lose fight to keep 4-year-old son

Judge backs adoption after lawyers criticise claims the boy needs parenting that is better than 'good enough'

By Daily Telegraph Reporter

A COUPLE with learning difficulties have lost a two-year battle to keep their son after social workers raised objections and Britain's most senior family judge admitted it was the "most difficult case he has ever tried".

The ruling prompted family law experts to warn against parents with learning difficulties being held to a "different and more onerous" standard of parenting.

Social workers said the couple's four-year-old boy, who had "complex special needs", required "better than good enough parenting" and should be placed for adoption. The couple had argued that with the "right package" of support they could care for the boy "safely and appropriately".

Judge Sir James Munby, president of the Family Division of the High Court, concluded that there were "very real and very worrying concerns". He said he had been "reluctantly and sadly" driven to the conclusion that the boy's welfare required adoption.

The family's legal team argued that a "better than good enough" requirement was "circular and dangerous". Deirdre Fottrell QC cautioned that such thinking could lead to parents with learning difficulties being excluded from raising a child who also had learning difficulties.

She said human rights legislation imposed an obligation on local authorities to provide support needed to allow a child to stay with their parents.

Sir James had analysed the case at a private family court hearing in Swindon, Wiltshire. He said the couple and their son could not be identified but said the local authority involved was Swindon borough council.

"[Ms Fottrell] challenges the assertion that [the boy] needs better than good enough parenting: it is, she says, circular and dangerous and runs the risk of a parent with learning difficulties being held to a different and more onerous standard," he said in his ruling.

"It would, she suggests, exclude a parent with learning difficulties who requires support from being able to

parent their child if the child also has learning difficulties."

He added: "It is not my task to find a 'better' family for [the boy] if, in truth, his parents, with proper support and assistance, can provide him with good enough parenting. I must be vigilant not to countenance social engineering."

Sir James said in October 2014 he was "profoundly" disturbed by the fact that the couple had not qualified for legal aid, yet did not have enough money to pay lawyers.

He said they had been left in a "shocking" predicament. They had been disqualified from receiving legal aid because the man took home £73.94 a month too much. He said the couple's "capital" amounted to a "very modest £3,250" and the man's "disposable monthly income" had been assessed to be £806.94.

He said it was not the job of family court judges to pass judgment on the Government's legal aid provision but called on the Justice Secretary to consider the couple's case.

*It runs the risk of a parent with learning difficulties being held to a different and more onerous standard'*