

# Why do our courts rely on 'hired gun' experts?

There was one highly unusual thing about the newspaper report yesterday on a Welsh couple, David and Julie Nevin, whose young son was removed by social workers for nine months, with a view to possible adoption. Two paediatricians had suggested that a small bruise on the boy's forehead was caused by parental abuse – but, in this very exceptional instance, a judge found the doctors' evidence unconvincing and ordered the boy to be returned to his parents. Hundreds of similar cases each year remain unreported because the evidence of "experts" is almost invariably accepted by the courts.

Devastating new light was recently shed on the "expert" evidence on which our courts so crucially rely by Professor Jane Ireland's report analysing 126 psychological reports used in family cases. A fifth of their authors, the study found, had no proper qualifications; 90 per cent were not in practice but earned their living from producing reports for social workers, and two thirds of the results were "poor" or "very poor" in quality.

The publication of this damning report, which had been delayed for six months, coincided with the reporting to the General Medical Council of another psychological "expert", Dr George Hibbert, accused of writing

hundreds of reports framed to suit the views of social workers. He had allegedly earned £6,000 a week for each family he was asked to "assess". A charge commonly heard against these psychiatric and medical "experts", endorsed by countless informed observers, is that too many of them are just "hired guns".

regularly employed by social workers to come up with the evidence they need to justify removing children from their parents. Naturally, those in charge of the system are anxious to deny such claims. In 2009, Lord Justice Wall, now our senior family judge, went out of his way, in one well-publicised case (W (Children) EWCA Civ 59), to claim that to regard experts as "hired guns" was "a misconception": their impartiality was a glory of our family justice system. Yet that very case, involving the Webster family, has become a byword for the fallibility of "experts".

Three children were taken from their parents after metaphysical bone fractures in one of them had been diagnosed as evidence of parental abuse. When the parents refused to admit to this, a psychiatric "expert" testified that this showed they must be guilty of both physical and psychological abuse. The children were sent separately for adoption. When the wife again became pregnant, the parents escaped to

another published judgment in



Ireland to avoid the baby being taken. But they also began to track down independent experts who might take a more informed view than that accepted by the court. Eventually no fewer than five experts, including one of the most respected paediatricians in the land, testified that the bone fractures came from natural causes. This led to the parents being allowed to keep their fourth child. But Wall ruled that, though the case was clearly distressing, it was too late to return the adopted children.

In another published judgment in

David and Julie Nevin of Swansea with their 22-month-old son Reilly, who was taken from them for nine months

Last year, however, Bellamy ordered the publishing of another judgment (EWHC 2011 B8), in a case I had several times reported, which arguably showed that he too was susceptible to experts whose one-sided evidence had not been questioned. The judgment (containing several remarks directed at me, some of which he later had to retract) ordered the removal of a baby from its devoted mother, accusing her of having harmed her child, on evidence remarkably similar to that which proved so flawed in the Webster case.

I now have files full of similar examples of families torn apart on the basis of "expert" evidence. Only very occasionally do these get publicity, via a higher court. Last year, for instance, the Court of Appeal overturned a ruling by Judge Orrell that three children should be removed from their parents. It had been arrived at after a 15-minute hearing where a medical expert testified that bruising on one child could possibly have been caused by "pinching". The parents had not been allowed to challenge this evidence. Mr Justice Thorpe memorably observed: "I am completely aghast at this case. There is nothing more serious than a removal hearing, because the parents are so prejudiced in proceedings thereafter. Once you lose a child it is very difficult to get a child back."

The removal of children into care by what the BBC calls our "brave" social workers is now at a record level of some 900 a month. In a Commons debate last week, Jonathan Djanogly, a junior Justice minister, stated in answer to John Hemming MP that some 90 per cent of these family care proceedings rely on the evidence of expert witnesses, the average case being based on four such reports. These make for their authors a remarkable good living. (A senior paediatrician, a doctor tells me, can receive £100,000 for writing one.)

Recent evidence seems to confirm there is much more here which those professionals whom Mr Djanogly described as "stakeholders" would not wish to be exposed to public view.

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Our children sound like