



Child D - Sutton LSCB Statement June 2016

On behalf of the Local Safeguarding Children Board (LSCB), I want to say how deeply saddened we are by the death of Ellie Butler. Our thoughts and prayers go out to those who knew and loved her, particularly her maternal grandparents for the love and care they showed to her in the 5 years that she lived with them.

The death of any child is always tragic but more so in these circumstances. Ellie was harmed by her parents, the very people who were supposed to protect her and keep her safe.

As the Independent Chair of the LSCB, it is my role to ensure that a Serious Case Review (SCR) considers the circumstances in which a child dies. This SCR was independently authored by Marion Davis CBE, former President of the Association of Directors of Children's Services. I would like to place on record my sincere thanks to Marion for her forensic examination of the events surrounding the tragic death of Ellie at the hands of her parents.

The SCR found that this was an exceptionally unusual case. Ben Butler had previously been found guilty of Grievous Bodily Harm (GBH) on Ellie in 2007 and then had his conviction quashed at the Court of Appeal. His conviction for GBH on Ellie was quashed because it was considered to be no longer beyond reasonable doubt. This was on the basis of new expert medical evidence. This does not mean he did not injure Ellie.

After Ben Butler's conviction was quashed, Ellie's mother, Jennie Gray, took their case to the Family Court to have the finding of fact, that Ben Butler was responsible for injuring Ellie, overturned.

The Family Court Judge went much further than the Appeal Court ruling and stated that 'any injury caused was purely accidental', that Ben Butler should be exonerated and that he was a victim of a miscarriage of justice. The Family Court Judge went on to state that she did not attach any culpability to Ben Butler for the 2007 injury.

The Family Court appointed an independent social work agency called Services for Children to assess and oversee Ellie and her younger sibling's placement with their parents.

Sutton Council strongly contested the decision made by the Family Court to have Ellie and her sibling placed with their parents. The SCR found that neither Sutton Council social workers nor staff from other LSCB agencies could have done anything more to save Ellie's life. Sutton Council fought to keep Ellie in care and away from her parents but this was ultimately dismissed by the Family Court.

The Judge subsequently ordered Sutton Council to write to all agencies to confirm that Ben Butler had been exonerated and was a victim of a miscarriage of justice. The Judge concluded that not only was she satisfied that Ben Butler had never caused harm to his daughter, in fact there was an innocent explanation for his daughter's suspected injuries.

The SCR found that this had 'a very significant impact' on the extent to which agencies could protect and safeguard his children from this point onwards. This is because Ben Butler used this ruling to avoid any meaningful contact and engagement with all agencies. The SCR found that the decisions and instructions of the Family Court had the effect of handing all the power to the parents. This coupled with the assessment made by Services for Children to support Ellie and her sibling to be cared for by their parents were identified as critical factors.

It was not possible for the SCR to gain greater insight into the decisions of the Family Court, as the Judiciary did not provide an independent management review (IMR) of its involvement and instead it supplied the Family Court judgements. Similarly, although Services for Children contributed to the SCR, they were unable to produce an IMR in line with statutory guidance.

The SCR could not be published until the conclusion of the criminal proceedings.



Christine Davies CBE
Independent Chair
Sutton LSCB