

# Bhatt Murphy Solicitors

## PRESS RELEASE

### COURT OF APPEAL DECISION IN CHILDREN'S "KETTLING" CHALLENGE

The Court of Appeal today refused three children permission to appeal in relation to the Metropolitan Police policy of kettling them at student protests in winter 2010.

On 24 November 2010 they, along with hundreds of other children, were detained in a kettle in freezing cold conditions for nearly 8 hours when they attended the "National Student Walkout" in protest against the proposed rise in university tuition fees and the abolition of the Educational Maintenance Allowance.

In a judgment delivered on 8 September 2011 the High Court had found that senior officers had taken sufficient steps to comply with their obligations under s.11 of the Children's Act 2004 to promote and safeguard the welfare of children because they had provided front line officers enforcing the kettle with a "release policy". That release policy had allowed for the release of "vulnerable people" who had been kettled. The children sought to argue that the release policy in question was not sufficient.

Although the Court of Appeal refused permission to appeal in relation to the release policy, it reiterated the High Court's ruling in favour of the children, that the obligation on the police under the Children's Act requires each individual officer to have regard to the need to safeguard and protect the welfare of children when making decisions that affect children.

The outcome of this litigation therefore means that children who have been kettled retain the right to challenge their detention through the civil courts. In such cases, the individual officers concerned must show the court how they complied with their duties to safeguard and promote the children's welfare. If the officers fail to do so, the detention of the child in question may be unlawful.

The Claimants' solicitor, Michael Oswald of Bhatt Murphy, said:

*"While our clients are disappointed with the rejection of their challenge to the policy in force on 24 November 2010 they are pleased with the clear statement that the courts have given to police officers in relation to their duties under section 11 of the Children's Act. The judgments of the High Court and Court of Appeal leave open the possibility of children who have been kettled challenging the deprivation of their liberty in the civil courts."*

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