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# Scrutinise fostering contracts, council lawyers urge

By Monidipa Fouzder | 25 October 2017

**L**ocal authority lawyers must pay close attention to contracts with independent fostering agencies following a landmark ruling by the Supreme Court, an insurance specialist has warned.

Last week, the UK's highest court ruled by a 4-1 majority in *Armes v Nottinghamshire County Council* that the council was vicariously liable for abuse committed by foster parents against Natasha Armes between March 1985 and March 1986, and between October 1987 and February 1988. The court rejected the argument that the local authority was liable on the basis of a non-delegable duty.

Lord Reed, giving the majority judgment, said the foster parents 'cannot be regarded as carrying on an independent business of their own'. He said: 'Although the picture presented is not without complexity, nevertheless when considered as a whole it points towards the conclusion that the foster parents provided care to the child as an integral part of the local authority's organisation of its child care services.'

Solicitor Kella Bowers, a partner at north-west firm Forbes Solicitors, specialises in historic child abuse cases and claims against social services departments. She told the *Gazette* that any historic abuse claims faced by local authorities are likely to be handled by external insurance claims lawyers rather than in-house legal teams.

However, Bowers, who is a member of the Forum of Insurance Lawyers abuse claims practice, said councils may feel the need to impose tighter control on their fostering arrangements. 'Enhanced rigour' could lead to increased costs and affect in-house legal teams' resources, she said.

The court has also not considered the legal position in relation to independent fostering agencies, Bowers noted. 'Here, the local authority has not approved nor trained the foster carer. Local authority legal and procurement teams must seek reassurance concerning recruitment policies and training by those agencies, to satisfy themselves as to the standards applied, and scrutinise the insurance and indemnity provision in any contracts,' she added.