

TAKING A STRAND

Time to tackle overreliance
on hair strand drug tests in
the family courts

An open letter to members of the Family Division and the Family Justice Board

We ([Birth Companions](#), [MSB Solicitors](#) and barristers from [4PB](#)) are writing to call for the Family Division and the Family Justice Board to commission an urgent review of hair strand drug testing in the family courts.

For some time now there has been significant reliance on the findings from hair strand testing in relation to drug and alcohol use. However, there is a compelling body of evidence that shows the processes used to interpret these results are vastly oversimplified and misleading. These results are often a critical factor in decisions about whether children remain with their birth families or are taken into local authority care.

As you'll be aware, in the recent Court of Appeal Judgment Re D (Children: Interim Care Order: Hair Strand Testing) [2024], Mr Justice Cobb concluded that Her Honour Judge Jacklin KC was wrong to attach "such presumptive weight" to the hair strand test results and that she did not consider sufficiently "the context of the broader picture" of evidence. What Re D highlighted was the fact that test results, when presented in isolation, without consideration of the context and wider influences, can be highly misleading. The advocates were criticised for providing only a brief summary of the test results and for omitting the comprehensive interpretation and opinions provided by the expert in the body of the report. The Court set aside Judge Jacklin's decision to authorise the removal of three children from the care of their maternal grandmother and uncle, which was largely based upon three sets of hair strand testing reports.

This is not the only case to highlight concerns with the way that hair strand evidence is interpreted and reported. These concerns include differences in the way substances are detected in different hair types, and therefore significant risk of systematic racial bias. In Re D, Mr Justice Cobb commented that this is "still an evolving field, and, as previous case law has cautioned, hair strand testing has its limitations."

The science and knowledge around hair strand testing has developed exponentially over the past 30 years. However, this knowledge continues to be largely ignored by the

industry when interpreting hair strand test results. In [their article for Fam Law](#) published last year, and a [further article](#) published in August this year, Sarah Branson of Coram Chambers and Paul Hunter, expert witness and Technical Director of Forensic Testing Service Ltd provide a detailed overview of these concerns and limitations, including reference to *Re H (A Child: Hair Strand Testing)* [2017] in which one expert stated “there are variables in relation to hair colour, race, hair condition (bleaching and straightening damages hair), pregnancy and body size. Then there are the variables inherent in the testing process.” Branson and Hunter highlight the impact of hair colour and race on test results, stating that [by using cut off levels for interpretation] “you are more likely to lose custody of your child if you are African, Afro Caribbean or Asian based on drug testing alone, than if you are blonde or red haired.”

Clearly, without urgent and comprehensive review of the way this evidence is presented and interpreted in court proceedings, there is significant risk that many more children will be wrongly removed from their families: a most devastating form of injustice.

The review should include consideration of the need for these tests to be treated as expert opinion evidence, with standardisation in the way they are instructed and reported. It should also consider the abandonment of outdated and discriminatory cut off levels; requirements for additional forms of testing including nail or body hair tests; and the abandonment of a single standard measurement of hair growth and drug incorporation into hair, given such wide variation among clients.

The lead signatories of this letter – barristers from 4PB; MSB Solicitors and the charity Birth Companions – have formed the ‘Taking a Strand’ campaign to urge the Family Division and Family Justice Board to commission an immediate, wholesale review of the way hair strand testing evidence is instructed, reported and interpreted in the family courts. The campaign is supported by a range of co-signatories to this letter, from across the legal, voluntary, technical, and academic sectors.

Yours sincerely,

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