

IN THE FAMILY COURT SITTING IN DERBY  
DE17F00184  
IN THE MATTER OF THE CHILDREN ACT 1989  
BETWEEN:

CASE NO: LU17P03152 &

Father K

Applicants

- and -

Mother L

1<sup>st</sup> Respondent

-and-

**2 children Girl M Boy N  
(children through their NYAS caseworker)**

2<sup>nd</sup> & 3<sup>rd</sup> Respondents

For the Applicant MrStephen Williams (Counsel) instructed by Family Law Group  
For the 1st Respondent MsValerie Sterling ( Counsel) instructed by Banner Jones  
For the 2<sup>nd</sup> Respondents Ms Rebecca Cross ( Counsel) instructed by NYAS

1. I am today determining an application made by the Father of two young children, aged nearly 5 and 6 to have them live with him or in the alternative spend time with him, an application which he made to this court as long ago as 14 February 2017. To do so I have read a bundle of evidence and heard oral evidence from two experts , the parents and the NYAS case worker who represents the welfare interests of the children , over three days. As time ran out and given I wanted any future work with this family to be on a clear basis I agreed to provide a written judgment.
2. As I agree that it is important for the public to understand how family courts come to decisions about the future of children I will therefore be preparing this judgment in anonymised form to enable it to be published. It concerns the impact of domestic abuse on child arrangements and an allegation of parental alienation supported by one of the experts only.

### **The law**

3. All decisions this court makes are based on the Children Act 1989 which requires me to consider the welfare of the child concerned as my paramount consideration. I must always consider whether an order is needed as orders should not be made unless one is. I have to consider a checklist set out in the Children Act at s1(3)
4. (a)the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
5. (b)his physical, emotional and educational needs;
6. (c)the likely effect on him of any change in his circumstances;
7. (d)his age, sex, background and any characteristics of his which the court considers relevant;
8. (e)any harm which he has suffered or is at risk of suffering;
9. (f)how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
10. (g)the range of powers available to the court under this Act in the proceedings in question.
11. I also note in subsection (2A) “parent” means parent of the child concerned; and, for the purposes of that subsection, a parent of the child concerned—
  - (a) is within this paragraph if that parent can be involved in the child's life in a way that does not put the child at risk of suffering harm; and
  - (b) is to be treated as being within paragraph (a) unless there is some evidence before the court in the particular proceedings to suggest that involvement of that parent in the child's life would put the child at risk of suffering harm whatever the form of the involvement.
12. I was referred by Fathers lawyer to a number of authorities which confirm both how important the involvement of both parents in the life of a child is and how the court must ensure that all avenues are fully explored before deciding there should be no contact, in particular the case of *Re O (Contact: Withdrawal of Application)* [2003] *EWHC 3031* and the dicta of Wall J where he stated:

- a. *Unless there are cogent reasons against it, the children of separated parents are entitled to know and have the love and society of both their parents. In particular the courts recognise the vital importance of the role of non-resident Fathers in the lives of their children, and only make orders terminating contact when there is no alternative.'*

**13. And *Re P (Contact: Supervision) [1996] 2 FLR 314*** when it was said that:

- a. *'It is almost always in the interest of the child whose parents are separated that he or she should have contact with the parent with whom the child is not living'.*

**14. Munby LJ in *Re C (Suspension of contact) [2011] EWCA Civ 521*** reviewed the existing ECHR case law and said that it had established the following principles:

- a. *Contact between parent and child was a fundamental element of family life and was almost always in the interest of the child;*
- b. *Contact between parent and child was to be terminated only in exceptional circumstances where there were cogent reasons for doing so, and only if it would be detrimental to the child's welfare;*
- c. *There was a positive obligation on the state, and therefore upon the Judge, to take measures to maintain or to restore contact;*
- d. *The court had to take a medium-term and long-term view;*
- e. *The key question, requiring strict scrutiny, was whether the Judge had taken all necessary steps to facilitate contact as could reasonably be demanded in the circumstances of the particular case;*
- f. *All that said, at the end of the day, the child's welfare was paramount.*

**15.** I am also well aware that the court as a public authority has a duty to use all its powers to ensure the Article 8 rights of children and parents to family life with each other are promoted.

16. As before if there are facts in dispute I will determine them on the civil standard of proof.

### **The family history**

17. The Father and the Mother had met in 2010 and began a relationship with each other. By this time the Mother was then a single parent with two children a boy born in 2004 and a girl born in 2008 to separate Fathers, both of whom lived with her. The Father too was a parent and his older child who was then 11 years old I believe spent some time with him.

18. They in fact married in 2013 after some pressure from the church. Both of them described this pressure to the court in the court hearing in 2017. By this time their first child born in 2012 was being cared for with the Mother as the primary carer and the Father then working full-time. Their second child was born in 2014

19. In 2015 in one of the separations there was a Children Act order allowing supervised contact and a non-molestation order made against the Father.

20. On the 9<sup>th</sup> February 2017 the Mother and all 4 children moved a long way out of area to a women's refuge.

21. The Father immediately applied for various orders including an order his children should live with him. He alleged the Mother struggled with basic parenting and the children were at risk of neglect and poor care. He had notified social services the day after she left. In due course Council completed a detailed assessment of all 4 children and their care and did not share his concerns.
  
22. There is a factual background to the difficulties that have led to this court process. That is set out in a Judgement of District Judge Afzal OBE who heard two days of evidence in 2017 and produced a Judgement in writing in September of that year. He had been required to do this because investigations revealed that the Mother alleged the Father's behaviour towards her during their relationship was abusive. When the Mother left she did not tell the Father where she had gone. He describes this as abduction. She described this as escape.
  
23. The conclusions of the Judge were that the Father had behaved in a considerably abusive way to the Mother over a prolonged period. I think it is worth revisiting that Judgement and some of his conclusions before I explain the other welfare evidence that I have read and heard about since. This Judgement and the facts that were found is the core of future work on this case
  
24. He began the Judgement describing the difficulties about the conception of the oldest child. The Father was quite determined that he might not be the Father, asserting a discrepancy of a few days. He would not accept the Mother's assurances she had not had any sexual relationship with anyone else. Because he could not trust or accept this it required a paternity test to persuade him he was a Father. The District Judge felt this confirmed the Father was quick to make his mind and not easily persuaded to a contrary view. He concluded this pervaded his conduct in many respects.

25. He noted that there had been short separations on three occasions in 2015 when the Mother had ended the relationship but had invited the Father back to the family home. She said she found it difficult to cope with the children and also considered the Father would not leave her alone and it was better to have him about than watching her all the time. The Judge accepted the Mother's account about this rather than the Father's assertion that the Mother had ended the relationship because of grief.
26. 2015 was a difficult time. The Mother had a serious accident and broke both her legs. Her Mother committed suicide in February of that year. Before she did so the Father made what appears to be a serious attempt to end his own life after he been asked to leave the family home by the Mother. His daughter was visiting and the Mother had told the Father he should leave once his daughter had gone back home. He chose not to do so, leaving immediately and when found was taken by the police into hospital.
27. I will return to the issue of risk posed by the Father's mental health and impulsive behaviour later.
28. The relationship continued until February 2017, with two further separations ( when Father left the home) before Mother left the family home. She asserted and the court found that the Father's behaviour had been controlling and coercive and had seriously impacted on her well-being. She described the only way to separate was to move to a refuge with four children, the older two of whom had to leave school and close friends to do this.
29. To the court then and now she's repeated her biggest concern was that Father would want to see the children and could take his own life and that of children. The District Judge did not find this proved since it was not a specific allegation set out

before the court before the court hearing took place. It has however been a repeated theme and something discussed in the hearing before me

30. The Judge was anxious about the Father's level of detail and scrutiny of the Mother and the monitoring control that he was exercising over every aspect of her life before and since separation. He described him as unable or unwilling to recognise that the Mother had left the home because of his behaviour or that he had behaved in any way badly. He made then, as he has continued to make throughout, allegations that the Mother was putting the children at risk of harm and made a variety of different and some significant complaints about this. He has for example said she is unable to cope to more than one local authority, alleged she exposed the children to risky adults as well as other complaints. Despite the Mother being subject to intrusive investigations on two separate occasions he's not been reassured by the outcome showing that she is caring for the children perfectly well.

31. He has also involved the police forces in local areas in his concerns about this.

32. The District Judge found that the Mother and children had been gradually isolated over a two-year period from family and friends by the Father and his behaviour towards people. He found that he had been emotionally abusive towards the Mother in that he attempted to commit suicide after the Mother informed him that she wished him to leave the family home. The way in which he sent messages to everybody in the family was he felt designed to ensure that other people would blame the Mother for his death. This he considered was emotionally abusive and a form of emotional blackmail. The Father's reasoning at that time that he felt pushed away and rejected was in fact the District Judge concluded because he felt he had lost some control The Mother felt forced to take him back and he had achieved what he wanted.

33. He had purposely excluded the Mother from the family home on one occasion. It was the Judge found as a way of punishing her at a time when she was responsible for care of the children.
34. He found that the Mother had understood from what he said that she would not see the children again in March 2015.
35. For a period in March 2015 while he was on bail after the Mother alleged assault and before she withdrew her complaint he was subject to conditions. He was found to have been watching the family home and snooping on the Mother. This reflected the Judge found the Father's obsessive controlling behaviour and also, I consider, a willingness to break the law.
36. He also secretly and without permission signed into Mother's accounts to access communications to and from her- a form of stalking I conclude. In September of that year he watched the family home when meant to be at work to check who was looking after the children. Unsurprisingly when she discovered this the Mother felt uneasy and fearful.
37. Over a period from November 2015 to February 2017 the Judge found his abusive behaviour worsened and he was verbally emotionally and psychologically abusive. He did something now described as " gas lighting" in which he deliberately moved things around the house to make the Mother feel that she was losing her mind. The Judge felt the Father was cross about the Mother ending the relationship and seeking a court order for herself and reacted in this way. His diminishing of her self-esteem, trying to suggest that she was mentally ill was he found not just eroding her self-confidence and esteem but deliberate. He described the Father lacking empathy about this and his behaviour verged on being cruel. He suggested in evidence to the District Judge that the Mother had contributed to her own Mother committing suicide. The Mother was incredibly upset, unsurprisingly, but the Father continued



with this stance. He had written messages in which he appeared to show care and concern for her over this difficult time but the Judge felt he had witnessed his real attitude in his oral evidence and found him to lack empathy and be hurtful. I think the words cruel are correct. Unsurprisingly the Judge concluded that the Father's behaviour, remarks and comments had led her to doubt her own mental health.

38. He has from the point they left to date the Judge found harassed and abused the Mother directly and indirectly and used every means he could find to locate their whereabouts. It was perfectly proper of course for him to use the court to pursue his application but he launched a campaign on the Internet seeking assistance suggesting the children were at risk, which the Judge found was untrue. He uploaded several documents to the Internet and then forwarded confidential court papers and private papers to the Father of the Mother's oldest boy.

39. The Judge ended by noting there had been evidence in the bundle Father had at times offered good and positive parenting to children and been a significant carer. He was concerned about him regulating his attitude and views about the Mother in the children's presence and his obsession to learn more about the Mother's current circumstances and he considered contact might be used to achieve this.

40. It should be noted that the Father repeatedly had not told the truth when his evidence was rejected. The findings support a prolonged and deliberate course of very troubling behaviour and the reality that even with the support of the court through a non-molestation order in 2015 the Mother was unable to obtain security.

41. A report was ordered at that time asking social services to look at whether children should live, what time they could safely spend with the other parent and if Mother's safety and that of the children could be assured in light of the risk from findings that have been made

**What is the impact of the findings of fact the district Judge made?**

42. The approach of the court is informed by previous case law including the case *Re LVN & H ( Contact: domestic Violence ) [2000] 2FLR 334* decided as long ago in 2000 which exhibited to it a report from Sturge and Glazer which explained the impact of abusive behaviour on children as either direct or indirectly witnesses of it. It also set out a range of actions following determination that abuse has taken place which might reduce the concerns for the child and parents' safety.
43. A range of enquiries had looked at concerns expressed about the court's approach to domestic abuse in cases about children. Practice direction number 12 J now specifically looks at how the court should approach this issue- it includes a definition of domestic abuse which includes "any incident or pattern of incidents of controlling coercive or threatening behaviour, violence or abuse and says this can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse. Controlling behaviour is defined as an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting the resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. Harm is defined as ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another, by domestic abuse or otherwise."
44. Its general principles set out that domestic abuse is harmful to children, and puts children at risk of harm, whether they are subjected to abuse themselves or witness one of their parents being abusive to the other parent or live in a home in which domestic abuse is perpetrated even if the child is too young to be conscious of the behaviour.
45. As a result the court is required to identify factual and welfare issues early on in the case and consider the extent to which the evidence of abuse is relevant to a child arrangements order. There is no presumption that any kind of abusive behaviour

prevents children spending time with a parent but each case must be considered carefully on its facts.

### **The further enquiries**

46. The court needed to now consider what the impact on the Mother and children of the behaviour which has happened might have been. The behaviour of the Father was deliberate, planned, repeated over a long period of time. It ignored the well-being of both his own daughter and all the children of the family. It caused the Mother to believe that she was mentally unwell and therefore must have affected her emotional and physical well-being for a considerable period. Nobody would go to live in a refuge in a town which they have never visited before with four children unless there was a very good reason to in my assessment. It seems to me unsurprising in such circumstances that the Mother would be scared and anxious about the Father finding her and seeing her or the children.
47. I say so because I am confident having heard the evidence from her and him that he did threaten to remove the children from her and the District Judge found this was the clear implication of his actions and behaviour. The District Judge did not know the full details of the Father's mental health history nor what has happened since. I will conclude such matters elevate the degree of risk in my assessment considerably.
48. The ordinary practice after a fact finding hearing has taken place is to enable the parties to reflect and consider about the Judgement of the court. This is intended to enable a party who has not behaved well to consider an apology and assistance in changing their behaviour. In other words, it allows change to be addressed. It then enables a consideration of safety and welfare to take place with a welfare report, possibly informed by specific risk assessments or attendance at a recognised course.

49. This has not happened here because the Father does not accept the Judge's conclusions. He continues even in his current emails to challenge the basis on which the Judge reached the conclusions that he did.

50. The court must consider the case on the basis that the Judges conclusions are the truth about the past

**Social services s7 report**

51. The court asked social services for a report as to the welfare of the children. That is the bundle before me - it was prepared by a Ms H and dated in November 2017. She is a social worker from Council X City Council. She had been asked to report as to whether children should live, the amount of time children can safely spend with the other parent and how the Mothers safety and that of the children can be assured in light of the findings made against the Father and any steps that can be taken to minimise or reduce the risk of harm. These instructions were entirely appropriate.

52. She had known the family for some time. The Father had made a referral himself saying he didn't feel the children were being looked after properly. Social services did not agree.

53. They reported that the Mother had been upset when she first moved and recognised that she needed support. She had engaged well and worked hard to meet the needs of her children. She identified risks that the children might not be returned to her if they spent time with their Father, he would question the children when he saw them and this would impact on them.

54. The Father made allegations that Mother's behaviour was a repeat of previous two occasions when each time she had alleged she was a victim of domestic abuse and "absconded" with the children. I do not accept this is a correct reading of the history and note his own comments about the Father of the boy. He alleged she

didn't supervise the children properly, allow the children to spend time with risky adults and was involved in fraud. She noted that the many separations during the parties' relationship meant the Father had been absent a great deal of the time. She considered it notable that the Father had not made any arrangements about where the children can visit or stay and he seemed unable to understand why he ought to. He had not considered a school either.

55. She did raise concern about supervision in the Mothers care given the significant number of injuries that the children had in the past all of which had been accepted as accidental but noted that there had been no further instances since the move . This was a concern of Fathers which was plainly merited. The Mother by this time was engaging with domestic abuse services and seeking specialist support for her oldest child who had witnessed the behaviour which the Judge described. Parenting support with managing the two children I'm concerned with had given the Mother additional skills which she had used successfully.

56. Overall she was anxious about the Father's understanding of the emotional needs of his children which he did not discuss at all. He used some very unpleasant language about the 13-year-old boy of whom he had been stepfather. Social worker also expressed concerns about the Father contacting the Father of this boy. He made serious allegations about the Mother's care to him and urged him to obtain full-time care of the boy but then complained within a month later that this man was a significant risk to children. She questioned, rightly, why he would do this. Given this last allegation I struggle to see how he can also allege she "absconded" when on his own account she was keeping this child safe.

57. She recommended professional supervision for contact to be reviewed after each session. This should not begin until the Father had had an assessment of his own mental health needs and treatment to manage and regulate his emotions about the breakdown the relationship with the Mother. Once this had done she would

recommend two hours every other month to begin to rebuild a relationship with the Father.

58. I consider this report is a through and proper analysis of the welfare issues in this case

#### **The court process continues- December 2017**

59. In December the parties appeared before the court when it was agreed that Cafcass supported the appointment of a children's Guardian to represent the children before the court given the difficulty of the case and that the National Youth Advocacy Service should be approached. This prevented any identification of where the Mother and children lived.

60. The Father had applied for an expert psychological assessment and was now represented. In the meantime, the Mother had alleged that the Father had broken an undertaking not to publicise information about the case. Father sought the joint instruction of a psychologist to help both parties assist the court. He also sought the recusal of the district Judge who had dealt with the case before.

61. The case did not return to District Judge Afzal as he had moved to a different court. His Honour Judge Bellamy was not entirely sure that the matters the Father admitted were in fact a breach of the order made and he dismissed the application for committal. He made a further injunction until the conclusion of these proceedings that the Father was forbidden to communicate with the applicant by any means except through solicitors.

62. The Judge approved an instruction of an expert with the lead being taken by the Father's solicitors in the report due on 1 March. The identity of Dr Carritt- Baker was approved by the court . A review hearing took place to ensure that the National

Youth Advocacy service were able to be involved and to set the date for their report to be dealt with.

63. There were some difficulties about the instruction of the psychologist. There seem to have been some delay in the papers going to him and he wrote to the court asking for further information by email and letter.

64. It is apparent to me that Judge Bellamy was concerned by the contents of this letter, as am I, since he had to say in the recitals that he confirmed that the findings made by District Judge Afzal are binding upon the expert and the court. I will come onto this letter later when I discussed Dr Carritt- Baker's report. The letter stated that "having undertaken assessment in tens of high conflict cases, where alienation was suspected or a factor in most of them, this case has significant red flag markers for alienation."

65. He had asked to see a great deal of information and the court approved some of it to assist him. That included the Mother's medical records and police information but did not include any previous private law proceedings and the court refused to allow him to interview the children, see their medical records or observe contact with them. He was asked to provide a report containing his rationale to meet with the Mother's older children and the Father's older daughter and why he sought social care records about the family and to confirm when his report would in fact be completed. The next hearing considered these issues. At this hearing an issue of him being replaced by different expert was considered at the Mothers request and refused. He was not allowed to have further evidence he wanted.

66. The case was then planned to a final hearing which was to be dealt with by me in August. This was on the basis that the psychologist's report would be filed and all additional evidence in the parties and the national youth advocacy service be available.

### **The hearing in July 2018**

67. At the first hearing that I dealt with in July of last year I had the opportunity of reading the report of Dr Carritt- Baker. I requested enquiries to ascertain whether he had considered the findings of Judge Afzal, was aware of practice direction 12 J and the case of *Re LNV and H* since it seemed to me this was absent from the report. Additional questions were agreed to be asked of him. He strongly advocated a change of the children's home and carer as he considered this was a "classic case of parental alienation" by the Mother.
68. I did not agree that the children were risk of significant harm at that time and therefore did not ask for a section 37 report. I was confident that if the caseworker from the National Youth Advocacy Service was concerned they would have made a referral.
69. I considered that any diagnosis of parental alienation ought to be made by an expert able to do so and the parties were able to find Dr Judith Freedman who has particular expertise in this area to report and undertake an assessment. It was agreed that all parties would cooperate in the instruction of her and she should be able to see the children as part of investigations. The case was relisted for three days in December.
70. At that time, I ordered that indirect contact should begin. It was arranged that the NYAS worker would deliver a card and the photograph the children on a monthly basis and that the Mother would provide the Father with a photograph of the children and an update
71. Father made it clear that he intended to pursue his application for a change of residence as promoted by Dr Carritt- Baker.



72. The hearing in December had to be vacated as the Father had an unfortunate accident and was plainly unwell enough to attend. Further directions were made including about the exchange of Christmas presents. The Father also agreed that he would pay the shortfall in Dr Freedman's fees
73. The case was then listed for three days before me in April which was the next three days available. More recently the Mother has made an application to prevent the Father making further applications before the court

**This court hearing – evidence of witnesses**

74. The first witness before the court was Dr Carritt- Baker. He is a chartered clinical psychologist. I had already in July 2018 expressed concerns having read his report that he did not appear to have taken the findings of District Judge Afzal on board. At that point I had not seen his letter dated March 2018 after his first interview with the Mother from which it is apparent to me that he had come to an almost concluded view that she was somebody who was alienating her children.
75. I have only recently seen the letter of instruction which does not seem to highlight the issues in a careful way and wrongly suggests that the District Judge made findings about all the allegations – he did not – but Dr Carritt-Baker plainly thought he had, adding to my concerns about how thoroughly he had read the Judgement. He was asked about the functioning of both parents and “the impact of the parental conflict” – when it is the impact of known about domestic abuse rather than a 6 of one half a dozen of the other picture. Surely, he should have been asked how Father might address the behaviour found, its impact on the Mother and so on?
76. I know he argues that any psychological assessment should look at a full whole picture, and I agree, but note it is only after he reaches a provisional conclusion about the Mother that he seeks more information about her, not before. I would normally agree any psychologist should have the medical records of both parents.

77. In any event by the 12<sup>th</sup> March he wrote saying he needed documentation identifying this as a “high conflict case where there is suspected contact obstruction or alienation featuring significant allegations” – the word allegations also suggest he does not understand what the Mother had said was found to be true. In his letter of 19<sup>th</sup> March he plainly seemed to accept the Father’s account that he had seen a process of alienation with Mothers older boy. He intimated he found the Mother an unsatisfactory historian and again I wondered if he had reflected on the fact the District Judge had much preferred her evidence to that of the Father. He might also have reflected on the Father’s position about this boy’s Father and his behaviour about that.
78. He then said he had undertaken assessments in tens of high conflict cases. I was unclear from him about how many cases he had dealt with. In his report he said he had done about 250 expert reports on a range of issues including mental health for the courts. In his evidence it was several hundred and he said he had completed about 70 reports on high conflict cases over a period of nine years.
79. His report summary states “ in particular (1) M holds views about the risks posed by F that are entirely disproportionate to the objective evidence (ii) she has an older child who has no contact with his Father and where it has been indicted that contact obstruction and /or alienation took place (iii) there has seemingly been an escalation of allegations, up to and including sexual abuse (iv) there may well be complex family issues for M that have not been properly delineated, including the possibility of sexual abuse by a family friend now in A.
80. This is just the beginning of the summary and I do not quote from it all but have underlined the words that cause me obvious concern- he went on to in effect suggest that the history of the Mothers own parenting might ( underlining appropriate here in my view) have led to the development of personality difficulties and he ends “in terms of risk my concerns relate primarily to the Mother, there is some real likelihood that she is obstructing contact due to implacable hostility

rooted in disturbances in personality functioning.” It is notable in this summary that no mention of any risks from Father are mentioned at all.

81. He quoted from the Cafcass chief executive officer Anthony Douglas who blogged in 2017 about parental alienation saying it usually has a part to play in every high conflict case and in his evidence discussed this. This reminded me to look at the Cafcass website and what they say about this. As counsel for the National Youth Advocacy Service reminded me there are significant differences between a pathway that Cafcass operate for domestic abuse cases and the pathway for high conflict cases. I accept there can be interlinking. The definition of alienation looks at a child resisting or refusing contact, not for a suitable reason. That is not the case here given the children’s ages. They have not seen their Father as their Mother considers it would not be safe. Overall I considered her objections were based on a number of reasons that include the impact on her, the Fathers ability to restrain himself from using them to search her out and undermine her, and risk of a revenge suicide.

82. Cafcass say of alienation “there is no one clear single definition. Cafcass recognises alienation as when a child’s resistance / hostility towards one parent is not justified and is the result of psychological manipulation by the other parent.” (*Children’s resistance or refusal to spending time with a parent: a structured guide*)

83. The Father seeks a specific finding that the Mother has alienated the children from him.

84. In his written report at page D 96 of the bundle when asked to assess both parents understanding and acknowledgement of the impact that parental conflict could have upon the children, a question which I don’t feel was properly phrased, Dr Carritt-Baker said that it was inherently very problematic for the Mother. He said “it’s not clear why she’s embarked on the process of trying to prevent contact between the children and the Father but the most likely reasons relate in general terms to

feelings about him and some combination of anger and/or perceived risk (which is now very clearly disproportionate to the situation)”

85. His opinion was that this side-lined the needs of the children. He felt the question stopped being of clear relevance once it seemed there was “implacable hostility” in place.
86. In general terms this seemed to my mind to lack any understanding of the Mother’s position. She might perhaps have to be saintly to not be feeling anger about what has happened to her and to her family. It is unclear to me how he says the perceived risk is disproportionate.
87. He moves on immediately to consider a change of residence and it was only in his oral evidence rather at the end that he considered there was any possibility of any other alternative. At D97 he told the court the central premise in family and child law is that children should be cared for and have relationships their biological family unless there are very clear reasons that this will result in less than barely adequate care. This is not my understanding of what the law says. The issue is whether the safety of the children can be protected by the arrangements made and the safety of the children may indirectly require the safety of the main caring parent.
88. At D 98 he said that the Father was not distorted in his thinking about the Mother. I struggle with how he came to that conclusion based on the evidence in the papers. He has seen communications from the Father and knows what the Father has said to others about the Mother. He knows that the Father’s assertions about the Mother’s care for example are not corroborated by any single professional. This must mean that the Father’s thinking about the Mother is distorted, surely?

89. Asked about the risk by the Father at D99 he said the Father “displayed some evidence of impulsivity for example when responding to relationship breakdowns and has clearly been under stress at times, which may relate to the same issues”. He therefore concluded he was of low risk. I considered here that he had not carefully looked through the Father’s medical records. The details of this are set out in the reports of Dr Freedman. They relate that the Father has had problems with stress and impulsive behaviour over a much longer period than the one incident in 2015. In 2001 he had an impulsive overdose and was actively suicidal and was kept in hospital for a few days. A variety of work and personal stresses had led to this. This is a period of mental ill-health which meant that the Mother of his older daughter prevented him seeing her for a period.

90. I have reminded myself about what the Father’s medical records show. He began to drink a great deal and received a great number of painkillers as a result of complex pain syndrome. In 2005 he was unable to work due to stress. He was spoken to in 2006 about coping at work. He was issued a medical certificate for stress reaction. He had been off work with stress for several weeks. At that point he was keen to receive counselling. His pains continued and the records show that much of the solution might lie in the psychosocial domain. In 2008 he reported feeling stressed and symptoms which GP plainly thought was stress-related. In 2010 he was consuming 70 units of alcohol a week. This had reduced by 2012. In 2015 the occasion which he left the family home leaving the two children I am concerned with and his older daughter there driving to Plymouth with the intention of ending his life and was detained as a result. The Mental Health Act Crisis assessment meant that a possible bed in the mental health unit was sought for him but after intervention he chose to leave with family members later. He was discharged from the crisis team in March that year with a diagnosis of adjustment disorder, seen by a therapist and referred on to Relate for counselling saying that stress of his wife’s accident and their separation was causing difficulties. We also know from recent evidence that he has made what appeared to be more than one threat of suicide. This in relation to the child maintenance service pursuing the fact he’s paid no maintenance for his two younger children for 25 months.

91. It is interesting that in his response to additional questions when asked to provide more detail about his opinion by reference to Father's medical records he does not refer to them at all. As I go through them I consider issues of risk are clearly shown.
92. When asked about his consideration of Judge Afzal's findings it is interesting that he says that "it may be necessary to pose the question as to whether the facts have now changed and whether that then impacts on the overall psychological opinion and risk analysis that is being provided". This was hard to follow but seem to suggest that he had made his own decision about facts that were different to those of the Judge.
93. It is interesting that in his discussion of *Re LVN& H* he goes through the seriousness of the physical allegations made in those cases. He rightly says domestic violence is a broad characterisation of different behaviours but says that in relation to this case and he adds "the other information" – the details of which I'm unsure of – that there are reasons to think that we are talking about really rather different "population groups" compared with the facts of the four cases detailed
94. It seems to me that looking at domestic abuse the impact of behaviour on the victim and those who are directly affected is what matters rather than the severity of the behaviour as categorised perhaps by criminal law. These findings are of both serious behaviour and prolonged and planned behaviour- to my mind in fact as serious as physical violence.
95. He ends by saying that his clinical view was that given all the other factors here "the significance of the acceptance or not of any domestic violence was in any case diminished to a large extent." He said for example he had the benefit of information relating to another child and another previous relationship. Overall, he felt the Mothers views on and fears about contact were entirely out of proportion to a reasonable appraisal of the risks. I struggled to understand and accept his analysis.

96. He gave oral evidence for the court and was questioned about his conclusions by all the parties.
97. In that oral evidence he asserted that Cafcass now say most of cases involve parental alienation in high conflict disputes. He described this as if high conflict cases were the majority of cases they and we in the family courts do and of course they are not. The child's lawyer also raised that it would be wrong to describe this as a high conflict dispute in its predominant form. Later he said that the Cafcass announcement about the high conflict pathway was a recognition that "we have got it wrong in thousands of cases". I am afraid I do not read it that way.
98. He stated that the only thing that works is transfer of residence. This would have long-term benefits and while the effect of disruption would be significant "as with any situation you can leave things or not". Otherwise this would allow "years of emotional mistreatment" in his assessment. He described this is being done routinely in certain places in certain cases, not my experience or knowledge. He did say that perhaps they could be a test and see if contact could take place and if not the children should be moved.
99. Asked about the significance of the findings he said that "it was in terms of understanding a period of time in Father's life when there was dysfunction." He said he was "probably" aware of practice direction 12 J. This concerns me given his asserted role as an expert to the family courts. He thought there was no evidence to suggest the play therapy suggested by Dr Freedman might be helpful. "For 20 years we have done this and now we know we have got it wrong".
100. Asked to comment on the analysis of risk prepared later by Dr Freedman he said that any parent denied contact with children would be a desperate parent. He felt the two occasions of suicide were response to difficult circumstances and not a general issue about what he's like as a Father. "that was about his circumstances at a

point in time” and asked, “ risk of what?” He considered the risk of self-harm or suicide was not something he would be at all expecting. He considered there was nothing that points to dysfunction with professionals. I ponder about the numerous complaints that is made about a variety of them in statements and e mails.

101. He said he had no anxiety having seen the same thing in lots of other cases - once the children move parents have a relationship with them. He wasn't clear whether he had spoken to A or not. The older daughter wasn't asked to come to court. I'm not assisted in general terms in relation to these children by the different circumstances with her and her Mother

102. He considered by a considerable margin the benefits the children of moving to the Father were clear. I considered that he had not put his mind to the issue of separation from their siblings or their Mother to any proper degree.

103. He described when asked about the Father's acceptance “ the situation that exists is the same as in tens of other cases. The parents disagree about the facts of the findings”. His opinion was that a lot of people who are findings against them have perfectly ordinary relationships with children. He talked about the “ red flags” that had led him to his conclusion that the Mother was guilty of parental alienation. This included her change what she had read his letter to the court, when he next spoke to her on the phone, his “sense” of her views being implacably hostile and what has happened to the other children- hers and his. Such a person would have ideas about the other parent that are not true and is unable to countenance the other parent being a positive figure in the child's life, he said and his anxiety was that not having a Father figure caused harm. In his view there was no need for indirect contact to take place the Father should be able to have an ongoing relationship with his children. I am not surprised Mother was concerned after reading his letter from the court and she raised it with him perfectly properly. A “sense” of her views is a worrying statement upon which to found such a serious conclusion.



104. I consider when one looks at the Mothers history one would be jumping to conclusions to assert she has chosen to bring up one other child who has a Father without him, particularly since this Father has asserted he was unsafe to professionals. There are no conclusions one could bring to the court about her second child whose Father simply refused to be involved once the pregnancy was discovered. I don't think poor choices in partners, if that is what it was, can lead to the conclusions sought here.
105. Even without a further report I would have had difficulty accepting his advice.
106. After he had given evidence I heard from Dr Freedman. She has a different range of professional experience as a consultant psychiatrist in psychotherapy at the Portman clinic and many more years as an expert witness. She had been able to hear Dr Carritt- Baker but her evidence to the court was unchanged.
107. Her report began by saying she felt important to shift the focus onto the exploration of possibilities becoming more child led by engaging children in play therapy providing a neutral environment in which they can find a way to speak about their wishes and fears. Any plan about contact and whether or not it is possible would emerge from that work
108. In her report she gave some detail about the parents background and she concluded about the Mother that she suffers from mild-to-moderate anxiety and depression in the aftermath of a series of traumatic life events which include a separation from the Father, the suicide of her Mother just before this and her very serious accident.
109. The Father she felt was likely significantly traumatised by his own childhood experiences. He is terrified his children will not remember their Father and will block him out as he's done in relation to his own Father. She finds a difficult start in his life

has had an enormous effect on him and he remains desperate to be loved but never believes that he is lovable. He turns against people believing they will not love him. She exemplified how this worked with the Mother. She also commented about his marginal working life. He's never actually qualified or worked too long in any single job .

110. As far as A is concerned, his older daughter who he has a continued relationship with, she felt this was enabled because this child's Mother was strong and mature enough to be able to stabilise his position their lives by allowing him to take a marginal place as A's Father while she moved on into a new marriage. He was also younger then and able to consider new relationships which now she felt was more difficult for him

111. She worried that he was not in touch with his emotions. His anger was palpable throughout but so was his depression she said. She found he was prone to becoming caught up in suspicions and innuendos.

112. Her conclusions about the Mother fleeing the family home was that this was the only way she felt she could free herself from ongoing controlling behaviour from the Father. I cannot find any other good explanation for it given the findings made.

113. So far as children are concerned M does not want to see her Father she considered and has referred to him as dead but N was panicked and ended the interview when they discussed this in a child focussed way . She believes he feels in a conflicted position knowing who his Father is and likely feeling an identification with him but knowing the rest of the family are relieved he is not in their lives now.

114. Clearly at times the Father has been able to meet their needs such as staying up at night and helping them sleep but at the time he has been a disruptive and

disgruntled presence their lives. He continues to be unable to accept he has done anything wrong. The fact he told her that there would be not be an issue about the children moving to live with him being separated from their Mother was an example she felt of his difficulty in recognising the children's emotional needs. In questions to her she felt his own sense of hurt and resentment overshadowed his ability to think about the needs of his children.

115. As to the Mother she reported her being mostly in tune with the children spending her life trying to meet their needs but currently finding it impossible to promote their relationships with their Father. She maintains he would or could use contact to the children to kill them and himself
116. She felt she could probably accept over time at emerging therapies that one or both of the children want to meet their Father and then a framework would need to be put in place so the children could be protected. This expert doesn't dismiss the Mother's fears at the risk of abduction or harm to the children. She felt Father is a desperate man with strong sense of grievance which makes him a risk. He is shown twice already is capable of impulsively behaving in ways that were potentially life-threatening to himself.
117. She was unable to recommend work that the Father could engage in as he didn't want it and couldn't engage in it but for the Mother ongoing counselling and therapy would be helpful to her
118. In general terms I considered her report a more rounded and careful and thorough piece of work.
119. In oral evidence she began by reiterating as of course is true that it's almost always the interests of children are to have a relationship with both their parents. Also the court should take a medium and a long-term view about this. She felt her

recommendations were suggesting a means by which the children might be able to have direct contact in the fullness of time but it might not work she accepted. She had not been asked to comment on Dr Carritt-Bakers report and said the reason why not was that she has overtime been told only to answer the question she's asked. It was not her opinion that Father was low-risk.

120. In relation to the proposed change of residence she considered there were specific risks to the children, first of all by the emotional harm of leaving their Mother and siblings with whom they have lived all their life, secondly by living with a Father who has not really addressed himself to meeting the needs of young children and third she could not rule out the degree of impulsivity causing risk that he might directly harm them or they might witness another suicide attempt. In her view the risk of suicide might not be situational. The continuation of the campaign against the Mother over recent years including the letters and emails concerned her. She considered it was stretching things to say impulsivity is related to the relationship with the Mother as it continues and she was aware of the recent threat to the child maintenance service that he would be dead as a result of their pursuit of him made just a short time ago. About this she said it showed strikingly something about the degree of impulsivity in his personality. It is a more long-lasting trend and is of concern while children are in his care.

121. The kind of supervised contact that might be possible the long run would have to involve two supervisors so that they were both free to intervene emotionally if something was said that was harmful and physically to keep the children safe.

122. She had assessed other families where she felt the Mother was alienating the children against their Father. She said the single most striking thing to her in such investigations were these Mothers were very controlling of their children in many ways and also this was palpable when she met them.

123. She accepted the Mother was right now unable to provoke promote a relationship with the Father. She described her as frightened for the children and her own well-being and still traumatised. The finding of fact made clear the level of domestic abuse that she had experienced. She felt there was a distinction between not promoting and actively preventing contact. The critical decision of her would be when a child asked to see the absent Father.
124. Like Dr Carrit-Baker Baker she confirmed there would never be able to co-parent as proceedings “are about as acrimonious as they get”.
125. She had found the Mother open to getting help. She recognised her boy needed help. She considered the possibility of getting therapeutic help was something that Mother would support.
126. She was asked to discuss the children’s understanding about their Father. They are both quite young. There are records of M saying that her Father was dead and also that her Father was N’s Father. Dr Freedman felt the statement wasn’t extreme given her age at the time and for children of that age “dead” was an impermanent situation thinking that M probably felt he was dead to her as he hadn’t been part of her life for two years.
127. She felt the Mother was traumatised in her discussions with her. She felt she would consider what she had written in her report. She considered the Mother’s primary concern was to have her address continue to be secret. About the Mother she knew that she felt the Guardian thought the indirect contact was of limited value to the children. She does have some reservations and explained that N’s behaviour had deteriorated after the visit. In her view she was explaining interactions do have an impact on the children.

128. She explained that children sometimes found it difficult to explain to others what was happening with an absent parent and so they would find something that was easy to say to prevent further questions. They are very clear to her that they knew they had a dad who was alive.
129. They live in what she felt was a complicated situation, children have different Fathers and the older two siblings do not now have a relationship with their own Fathers, the girl never having had a relationship as he was not prepared for this from before birth. I note the boy has seen his Father from time to time however. She felt this might have some impact because the older boy is saying quite clearly that he had a difficult time with the Father. Asked about suggestions in early documents which were not before the court in which this boy said different things some time ago she wanted to know the context and this of course was before the events leading to the separation and them having to leave home.
130. She did not have concerns about alienation. She considered what the Mother said is coupled with her anxiety about the safety of the children and she did not consider her worries were disproportionate. While she hoped that worries could be allayed in some way in the future she considered the Mother would worry the whole time the children were with the Father. She and the Mother were aware of a number of stories where arrangements breakdown, there is absconding with children and all of this creates big anxiety for the Mother." It's about her children not what happened to other children."
131. About the therapy she recommended she was very clear it shouldn't have a goal i.e. it shouldn't be "to make sure contact happens". It was to provide a safe and neutral place the children to say what they want. She felt we were all guessing about what these children have experienced. Until explained "we don't really know".

132. She thought the Mother would be able to explain to her children that they need help in their own right as she has done. She believed that Mother was most concerned about her children's well-being. She pointed out that the Mother might equally have been criticised for allowing the children to stay in the household where so much abusive behaviour was happening had social services been involved then – that is correct I consider. It had not been easy for her to leave. She described the Mothers "suffering." She has managed care for all of the children. In part the reason she didn't leave earlier was clear that she felt she would struggle but now she is able to do this.

133. She felt the Mother would listen to what was in her report and what any therapist said to her. She too was clear the proceedings should end now but clearly it would not be a total end with the court being involved if necessary. She considered the proceedings were having an adverse effect particularly on N. He'd obviously been panicked to meet and discuss it though she didn't know why. They will be aware that the Mother is under strain from all this and as they are very young all four children will be very sensitive to how the Mother is "how could they not be?" she said.

134. She felt there was no way of knowing if the children moved as Father sought that they would have contact with the Mother and their siblings. The Father told her "she lies she is evil" and talked about the Mother in the third person. He described her as, "all she wants is control and power". He has of course reported her being a neglectful and abusive parent so it doesn't quite fit that he says they could spend every weekend with her, and not in my assessment realistic.

135. Dr Freedman's opinion was that these children losing a loving relationship with their Mother and siblings and the maternal family would be very destructive in her view. At this time, we do not know if the relationship the Father would be permanently lost she said and it isn't known if play therapy will have an impact now

or might do when the children are older. Of course there is no perfect outcome either way. There are losses for the children either way she considered.

136. She considered that compared to Dr Carritt-Baker she had taken the findings of Judge made more seriously. She couldn't see how one could take the findings seriously and not be concerned about risk. "It is stark, there and Father cannot accept them".

137. She was particularly anxious the contact shouldn't be introduced if it was going to fail. To start now you'd want to have the best chance of success she said and she had much experience of seeing contact with children who had not been given the choice if it should start then who would show physical or other symptoms and contact would not succeed. The opportunity for a neutral person to explore what's in their minds and their lives was important. She explained she would be willing to report again as to the progress of therapy the court felt it would best. Clearly the Mother would need to comment to commit to taking the children to play therapy and be open to it, saying this important and we are going.

138. She repeated more than once that the finding of fact is the basic point for work to begin. The kind of service that she identifies is likely to cost roundabout £50 an hour and is plainly available locally. During the hearing possibility of school or other providers was explored but none was available. In the fullness of time Father gave a commitment to pay up to £200 a month for a period. It's fair to say that in part of his evidence he intended to reduce child maintenance by the sum of money but that was not his final instructions and commitment to the court

139. A period of six months to a year was likely to be the kind of period and she would expect this to be weekly. It must be a confidential space for the children so not reporting back as such. She had been very struck about the Father's comments to the social worker that he was so caught up this fight in the court that he had



thought at all about the arrangements for his Children. The conclusions of the social work report suggested Father having a mental health assessment and after that beginning the process of contact. She did not feel contact could begin now. While a gap might make it harder the therapy might make it easier.

140. She was asked about A, Father's daughter. She hadn't met her but read her statement. She wasn't sure, nor am I, if any professionals have done. He had walked out of the house when she was visiting to stay with him to end his life in 2015 and to her that spoke volumes about his relationship with his daughter especially when the Mother had said that he should leave after his daughter had left the house herself. She points out it means a lot when a parent tries to end their life to a child. She felt that A was vulnerable young person likely to be in the difficult position.

141. Her assessment of the medical records was both occasions when the Father had been actively suicidal he had been offered further treatment and he didn't engage. The Father said he was referred to Relate for six weeks. I considered there was not evidence in the medical notes, which the doctor and I would have expected, to show that he had ongoing medical treatment.

142. I was troubled by Dr Carritt-Baker's report. He seemed to move to an analysis of risk that was not supported by evidence and to have not considered carefully the meaning and implications of both the Judgement and the Father's medical records and history. I considered his description of "populations" and references to Cafcass guidance to be unhelpful. I considered a recommendation of change of residence immediately without any proper analysis about how the Father might care for the children, or the proper and real impact on the children of separation from their Mother and siblings to be surprising in a child welfare professional.

143. I accept that in appropriate cases a move of residence to enable children to have a life without a false picture of one parent and ensure relationships with both is

on occasion appropriate and this is a course of action I have taken myself. Such cases are rare. Like Dr Freedman this case did not have any comparators with those cases which I have dealt with. I wondered what had been the point for him of the finding of fact hearing when in reality I felt he considered the findings of a trivial nature, not my own assessment.

144. Dr Freedman had a sympathetic and empathetic approach to both parents. I felt her grasp of the root of the problems was surefooted, her assessment of risk accurate and her conclusions about them founded on an evidential basis.

145. The Father in his evidence was asked about his Facebook and email posts. He admitted his solicitors had tried to advise him not to send them but he had felt he “needed to”. I think this level of self-control and inability to follow professional advice is a risk issue. I have seen these communications and find them troubling. They are obsessive and worrying e.g. to the public “it is quite clear that my wife is trying to kill me....she is trying to force me to commit suicide” ..” the wife to a tee, and that is how serious it got with a trip down to Plymouth to get out of it...permanently.” He accuses all professionals of incompetence. He said on a number of times that he intended to report perjury from the Mother and her barrister if this was repeated. As I eventually explained to him I was puzzled about how a barrister could be reported for perjury when she has not given sworn evidence – but it is symptomatic that he sees her representing the Mother as against him.

146. He agreed that this whole experience has been horribly stressful for him, which I’m sure is true and he has incurred a huge expense to be represented. I am sure he genuinely wants to be a Father to his children and their absence from his life is hugely painful.

147. He told the court that after he had paid the first instalment of maintenance he had left his job in April 2017 due to the stress of divorce. He’d had to have a

month off because of stress and had been breaking down at work. He then moved on to a job at Costa coffee. He claimed a number of reasons why assessments had been incorrect until very recently there had been a number of letters and telephone calls. To them he had explained the need for him to pay his very considerable legal fees and the fact he was already living with relatives relying on family and friends to make ends meet. He felt because this case was based on perjury they should factor in his legal costs to reduce any obligations he had.

148. He had felt the child maintenance service trying to insist he paid maintenance which he is legally liable to do was harassing him. They finally said that the money will be deducted from his pay directly. He felt this might result in him having to represent himself again and the result of this was threats. He said they would not recover funds from a corpse. The police were contacted and he was spoken to. He accepted that stress has been impacting his work recently. He expected that what he'd said to the police would result in the child maintenance service "backing off." I'd comment a threat that has had the outcome he sought , if so.

149. Throughout his evidence were number of statements about the Mother. This included him saying that she was a danger to his career and accusing her of an amount of fraud. He said," I want her to release me from her control.". He was asked in his evidence about the suicide attempts. In 2001 he'd seen a psychiatrist while an inpatient, had gone back a few days later and then he said been signed off. He had then been put into the care of his parents.

150. In 2015 he said he had a long time with the crisis team who came to the family home and spoke to both the Mother and Father were involved for a few weeks. He had some outpatient appointments and then was referred to Relate. For six weeks he went there. It's plain from the hospital notes that only he was referred to Relate who do individual counselling. Rather oddly he claims Relate told him to report the Mother to the police for abusive behaviour towards him. I have

considerable doubts about whether they did that but plainly even if his own account of what he alleged if true he chose to continue a relationship for another two years.

151. He told the court that he had somewhere to live. This would be his Mother's house right now before he found somewhere else and her school nearby has got places and counsellors. He has some relatives though not as nearby as he perhaps suggested. In fact it would be a 130 mile commute to work. He said he would allow weekend contact with Mother and facetime every day. He wanted a power of arrest in case the Mother "absconded" with the children again. He thought the effect of the children moving would be significant especially for the first six weeks and for the first few days they'll be very upset and unsettled at night. He might expect some variance in how they ate and perhaps temper tantrums. If the Mother could speak on the phone it be helpful. He would not work for between six weeks and two months he said.

152. He could give a detailed description of both children. He obviously loves them very much.

153. He struggled with the idea of play therapy. He felt that if he was not promoted as a Father in the home it would not be of value. His conclusion was that Mother was coaching the children but no professional has any evidence that this has taken place. He claimed the children have been told your dad has been dead for three years. I'm confident this is not true. The Mother has had people in and out of her home checking the safety of her children and no one has reported this.

154. He appeared upset on Facebook and in court that he claimed that Mother had alleged she had been forced into marriage with him. I pointed out that both had agreed with the district Judge that church put pressure on them about the wedding and Mother had not made any such complaints.

155. He was particularly aggrieved that a social services report in 2016 had not been referred to at the finding of fact hearing which he alleged would have made a great deal of difference. Plainly he has a great deal of material that he would like the court to look at to re-examine the findings made.
156. He discussed child maintenance at this point reveal that he was paying his daughter £400 a month for rent on her flat when she of course could have a government loan for this. Clearly it's a good thing that he is supporting her but it is troubling that he does this at the same time as he is not supporting his very young children .
157. He states a 2016 report the older boy had described a good relationship with his stepfather. Now he does not but I note the stepfather is reported to refer to this child in rather abusive and unpleasant terms since. He said , “ they need to know I am not the monster three people in the house say I am”. Whatever the feelings of the older children and Mother I feel some confidence that this Mother is understanding that it would be harmful to children to say bad things about their Father.
158. He described himself as having been able to care for the children and work when the Mother was in hospital with her broken legs. In reality we know from the history that he found this incredibly difficult. The Mother in fact alleges that he discussed the children being in care because he was finding it so hard.
159. He still wanted to go straight to the police about perjury calling the Mother “a major liar”.
160. I formed the same impression of the Mother as Dr Freedman and District Judge Afzal had done. The Mother had been present throughout the court hearing behind a screen. She was plainly anxious about the whole experience, unsurprisingly

for any litigant. She had found the emails and Facebook posts forwarded on to her by others harassing and stressing. She herself did not look at the Father's Facebook but others did and would report it to her. It contains nasty statements about her. The prevalence in his evidence written and oral of unpleasant statements about her leads me to conclude there is a grave risk that he would not be able to prevent the children knowing what he thinks and says to others.

161. I am confident however that when they lived together not only did he respect her as a Mother but he must respected her as a carer for his children since he left her with them on a number of occasions.

162. Her assessment that this will never stop and he will never let them go and have a normal life without him is currently founded upon a real factual foundation I consider.

163. The Mother was anxious too about her financial situation. Unlike the Father she's been able to have the advantage of public funding but she has not had the advantage of him paying child maintenance. He made one payment 26 months ago and nothing since. He owes thousands of pounds now and when repeatedly contact more recently by the child maintenance service he has said if it pursues child maintenance he may commit suicide and she understands they will abandon pursuing him as a result of this. He has confirmed the court however that he will immediately this case is over begin the payment of both ongoing child maintenance and child arrears and I authorise the Mother to release this paragraph of my report confirm this is his evidence to the child maintenance agency

164. He confirmed in court that he earns £3800 each month net from his work and his war pension. The Mother now on universal credit has had no money at all the last six weeks and has been living off food banks.

165. She described that her health had been significantly affected during the period of time she lived with the Father. She had had scans since but her health had been much better save for nightmares and migraines which she's had some hospital treatment for and is now on medication. She had a prolonged period of counselling which affected her confidence and improved it.
166. She described life in the refuge as they escaped from the family home is difficult. The older children had missed school and friends. The Refuge was a busy environment in which to live. Now they are in a new home. Social services, experts for the court and the National youth advocacy service worker have been in and out of the house and she considers this is confusing for the children
167. She says, " I am scared – complaints are malicious, horrible and frightening." She felt a lot of work had to happen before contact could begin with the Father and for the children. There were lots of risks. She identified these as being his impulsive behaviour, his getting angry quite quickly, his view that it was his way or no way, and that he was not prepared to acknowledge other views. She didn't think he'd be able to maintain the children's needs or provide for them and considered he needed some counselling. He needed to prove he could be trusted but she generally did not know how she could know he had changed.
168. Even now she felt he is still unable to contain himself being very angry, wanting to complain and I would add interrupting with his own statements in the course of the court proceedings.
169. Her perception was that she didn't know what he wanted but felt that he wanted to fight and again that he wanted to win. She accepted at times he had cared. However, he had been at work a lot of the time

170. She was not open to direct contact but said quite clearly "not yet". She felt her childrens' safety and well-being being came first. She was fleeing domestic abuse and doesn't want children to be with a man who put her through so much. She has been anxious because she feels she's had a reason to be anxious. She explained in some length why her older daughter understands she doesn't have a Father. The man who had got her pregnant had abandoned her when she revealed this and had not wanted to be involved in any way. He has never been around and it seems to my mind that the way she has had of dealing with it is not unusual.

171. She described that before she had fled the home the atmosphere had not been good and the children had picked up on it and this had made all of them feel anxious.

172. She accepts she would follow an order of the court but would be very concerned if any direct contact was ordered now. She explained her feeling that she genuinely felt he might kill the children because of the amount of suicide threats, his determination and his making it clear he wants children removed from her. She thinks he might drive the car with the children and they would be killed. He has in the past threatened to "take the children with him".

173. She told me about viewing the cards and photographs the Father had sent and that if the children wanted to look at them she would happily do that. They have not suggested it and it seemed rather artificial to me to suggest that she might. I note that the National Youth Advocacy Service worker says the Mother was more than simply accommodating with the indirect contact but actively helpful to the children on each occasion.

174. She was clear that she wouldn't say to the children her views about the Father her worries about his mental health and so forth because it wouldn't be right. I accept that she has restrained herself from expressing a view to them but of course



they will pick up her anxiety about him. For myself I cannot see that the Father would have the self-control to do that himself.

175. She described her children as “traumatised” an assessment that Dr Freedman, based only on her visit I accept, agreed with. I’m content to accept her assessment of this though as a professional whose views I respect
176. I could understand why the Mother had felt a bit fazed by being asked to help her daughter send a card to the Father when in fact her daughter didn’t seem to really understand what exactly was she was doing. Her acceptance it would have been nice for the Father to see a response and that she would agree to do it in the future was satisfactory to my mind. She agreed she would send a picture and a Father’s Day card and she would let him have regular news about school and their developments. She had given them lots of details about the kind of things they would like for presents and they know that these presents have been provided by him and have enjoyed them. She would help the children respond.
177. She was anxious that mention of dad had caused difficulties. Her boy had drawn on the wall and had been wetting the bed regularly which she linked with indirect contact beginning. She felt it was very important for them to have home is a safe place
178. She clearly said in evidence that she would choose therapy for the children because she felt it would release stress for them. This was a new offer of help the children which she felt might be equivalent to the kind of counselling which benefited her. She noted however that in her experience talking about things can make you feel quite down before you feel improved and said she was expecting the might be some bedwetting and so forth. Even so she thought it would help them. Herself she would encourage the play therapy but wanted the children to have some element of choice in this.

179. She wanted a break in the court proceedings for about 12 months
180. She was asked about the practical things that might enable supervised contact to take place and agreed that if he was prevented from saying things or asking questions the children, from following her if she left, just him and him building up trust the children that would be how supervised contact ought to begin. However, she did not feel it could go ahead straightaway. She had understandably I think been anxious about details about her new boyfriend being released to the Father. She didn't want him to be tracked down and bombarded with information and emails as he had done with the Father of her child and later on this mans new wife.
181. In general terms I considered she was a fair and balanced witness and telling the truth about the events she described. I recall she was able to tell Dr Carritt-Baker about the Father when they met ; he was funny, really loving, helpful, thoughtful and he spent time with them. And of course despite all the difficulties about the wedding he chose to take her surname as this made it easier for her children
182. I think it is hard for someone in her circumstances to know exactly what picture they should give their children about family life after an unhappy separation. She won't want to say only good things about their initial happiness. She won't want to describe in any detail about how she became so unhappy they separated. She needs a little help with the script I think.
183. Lastly I heard from the NYAS caseworker who supports the recommendations of Dr Freedman. In her report she confirmed the many allegations Father made not only about Mother but about the oldest child, in fact the Fathers stepson. Her assessment was that he had a limited understanding of the risk of emotional harm to children.

184. She expresses concern about the lack of discussion in the family home about Fathers , for example the older girl whose Father never played any role in her life. She wondered if the role of Fathers was “closed off”. I ponder whether this is something the Mother needs advice about since starting the conversation may not be easy for her. She has given an ordinary explanation for the older boys Father limited involvement in his life.

185. She had found in her enquiries the younger children said odd things about their Father – and Dr Freedman was asked about this in her evidence. It remains concerning they do not ordinarily respond by recognising their Father but I consider the continuation of indirect contact is useful for this. She had delivered the indirect contact and felt Mother helpful. There were minor comments about what was said or pictures early on but it is now clearly working and I accept a difficult thing to start. It will be easier once it can really be a two-way conversation as the children may respond and at least say thanks for gifts. Clearly Father is not mentioned in the house, Mother accepts save for indirect contact and over time this must change.

186. The worker had arranged for a DBS check on Mothers new partner who does not cohabit. It is clear but Father insists he must have a redacted copy. She thought any therapist should report to both parents as to progress. I am anxious this person might then become the recipient of numerous e mails from the Father if so.

187. This worker considered Mother, despite her views had worked with her about indirect contact. She had not agreed on one recent occasion to the children being invited to respond but as the worker confirmed this had not been in the court order. She was able to report on a happy child focussed home and spoke to the eldest children who had been affected by the move and the boy very much by a difficult relationship with his step-Father. She observed a close relationship between all four. While she saw signs of movement in the Mother she could not in the Father who remained focussed on undermining the findings of the court.

188. In the long run she hoped for contact to be supervised as I think Dr Freedman had said would be necessary but felt her suggestion of play therapy was the right way ahead as the children aren't ready now for contact to begin.

189. She did not support a change of residence but accepted not seeing their Father has a severe impact on any children. She could not see the Father being able to promote a relationship with the Mother given the number of serious complaints he makes about her care. She supported a breathing space for everyone but no restriction on future litigation. She accepted if Mother could not work with play therapy and in effect allow Father to become a real person to the children even if they are not currently seeing him she would be very concerned but for now she felt Mother does promote the wellbeing of the children and would continue to do so.

#### **Welfare Conclusions**

190. I have explained above the many reasons why I do not accept the advice and conclusions of Dr Carritt-Baker and do of Dr Freedman. That conclusion is essential to my welfare evaluation.

191. This is a family where the children's basic care needs are being met well and their emotional needs save for being allowed to "consider" a Father well met by their Mother. They would be at risk of harm in my assessment if direct contact were to take place straight away as emotionally they are simply unprepared for it and as of now the Mother would struggle but I consider a period of therapy and some breathing space for reflection would enable that position to potentially alter. I am not persuaded this is something that should be forced at this stage. I am confident the Mother would obey court orders but she would be anxious and frightened and I consider there is large risk it would not work . I consider the need for considerable oversight of any contact is likely to remain.

192. The children's wishes and feelings have not been able to be fully explored. They are small but have a faltering sense of a Father now and the oldest has been notably resistant to discussing him. Therapy gives them the chance to talk about this.
193. I consider a change of home would be impossible for them to cope with now. Their Father is a stranger, poorly prepared physically and emotionally to care for young children who would find separation from their Mother and siblings enormously distressing together with change of home, education and friends.
194. This is a family where both parents are suffering and the pain they experience as a result has been palpable in court.
195. It seems to me if both were able to calmly reflect on the conclusions of Dr Freedman they might have a greater understanding of what they each brought to their relationship and perhaps why it was not successful. They are each, like all of us, fallible human beings. I think each would benefit from counselling, someone to be able to talk to about their past, this experience in court, their anxiety and sadness and how to deal with it.
196. It would be possible then I think for the Mother to reflect on the positives in their earlier relationship she identified and in the Father- not only the two children they made together. She will know I am sure this would be good for her children to understand whatever the future of contact.
197. For the Father I would hope he can learn to manage his strong feelings of pain and anger in a way that is more helpful to him. He must know I think – he is an intelligent man – that it makes people anxious to get one of his emails and that so far his complaints have not achieved what he wants. When he sends e mails against the

advice of his lawyers – on which he has spent a lot of money to advise him – it gives me the feeling he is not entirely in control of his actions.

198. He too is suffering but expresses that in a difficult way. Whether he could at some time learn to see how difficult things were for the Mother I don't know. I recall District Judge Afzal explaining how he urged him to stop alleging that the Mother had contributed to her own Mother's suicide and he would not while she sobbed in the witness box. When he questions why she doesn't want him in her family life this is an example surely?

199. For the time being I am not satisfied direct contact is safe. I also accept that if I was to order direct contact now it would not work- neither the children nor the Mother are able to contemplate it. Time is however a healer and I do not feel the prospects of some direct contact taking place, even if supervised carefully are remote.

200. That happening is up to the Father in allowing some breathing space, funding the therapy needed and continuing his communications and gifts to the children. If he can see that the communications he makes in a public space about the Mother are not helpful and restrain himself from making referrals to social workers that would be helpful. Since I conclude there are risks relating to his ability to manage stress he may choose to obtain help for that. He would need to show this judgment though to anyone he sees as otherwise they would begin on his false presumption that he is a victim. If he is in settled work and established in a new home and has to a degree moved on in his life he will tell the children and Mother will know.

201. It is a shame that contact with A and this family has ended. I can understand Mother's anxiety about her whereabouts being reported but perhaps in time that might be a way to keep a door open.

202. Mum was asked how would she know if Father had changed. She was unable to respond. I think she would know if her friends reported no social media comments about her, if his communications were civil and he paid for the therapy and for the children without complaint, did not try to track her down in any way and did not make complaints to professionals about her.

203. I do not consider an order preventing future applications for any period is merited. The Father has made a proper application to the court and pursued it entirely appropriately. It is unfortunate this application was made. I refuse to make an order. He has also properly agreed to terms of an order intended to provide some relief of anxiety to the Mother.

204. Of course there will need to be up to a year of therapy and this is unlikely to start tomorrow but all future hearings will be reserved to me.

205. Parents may and should take the report from Dr Freedman and this judgment to any therapist or counsellor they approach.

HHJ Williscroft

15.05.2019