



Neutral Citation Number: [2020] EWHC 2741 (Fam)

Case No: MA20P01898

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Sitting Remotely

Date: 19/10/2020

Before:

THE HONOURABLE MR JUSTICE MACDONALD

Between:

A Local Authority

Applicant

- and -

M

First

- and -

Respondent

F

Second

- and -

Respondent

B

Third

(By His Children's Guardian)

Respondent

Mr Fergal Allen (instructed by a **Local Authority**) for the **Applicant**

The First Respondent appeared in person

The Second Respondent did not appear having not been given notice

Ms Willis (instructed by **Bromleys**) for the **Third Respondent**

Hearing dates: 5 October 2020

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Mr Justice MacDonald:

INTRODUCTION

1. In this matter I am concerned with the welfare of B, who is 17 years of age. B was born biologically female but now identifies as male. His interests are represented by his Children’s Guardian.
2. In these proceedings the local authority seeks relief under the inherent jurisdiction of the High Court in respect of B, namely a declaration authorising the deprivation of B’s liberty. B’s mother is M. She appears before the court in person. At this hearing the local authority applies for an order permitting it to dispense with service of the proceedings on the father of B. It remains unclear whether the father has parental responsibility for B, he not being named on B’s birth certificate but having been described in previous proceedings as having parental responsibility for B.
3. In cases where an application is made not to serve a parent who would otherwise be served with the proceedings, consideration should be given to inviting the Attorney General to intervene in respect of the application in circumstances where the party concerned is not, for obvious reasons, before the court to argue the contrary case. The local authority has, accordingly, notified the Attorney General of these proceedings and of the application to dispense with service on the father. The Attorney General has indicated by correspondence that she does not wish to intervene in the proceedings.
4. In this case, each of the parties before the court submits that the father should not be served with notice of the proceedings. However, given the import of an order dispensing with service on a parent in proceedings of this nature, and the fact that the father is not before the court, it is appropriate for me to give a short, reasoned judgment explaining the basis for the order dispensing with service that I am satisfied should be made in this case.

BACKGROUND

5. Regrettably, B has been the subject of significant litigation during his life. He has been the subject of three sets of private law proceedings under Part II of the Children Act 1989 and the subject of one set of public law proceedings under Part IV of the Children Act 1989. B was made the subject of a final care order in 2015 and was placed in foster care. In addition, B and his mother have the protection of a non-molestation order against the father without limit of time.
6. The local authority’s application for an order dispensing with service on the father is supported by a statement from the allocated social worker dated 14 September 2020. That statement makes clear that the circumstances in which the foregoing extensive litigation arose have been very difficult indeed for B.
7. The relationship between his parents was characterised by domestic abuse, including threats to kill made by the father towards the mother and physical violence towards B and his sibling. The mother also alleges that the father sexually abused B’s sibling. Within this context, the mother had to move home with the children a total of over

forty times to avoid harassment by the father and changed her and the children's names on no less than three occasions.

8. In 2012 a MARAC assessment deemed the mother and the children to be a high risk of harm from the father. Later that year, a finding of fact hearing in the second set of private law proceedings found the allegations of domestic abuse against the father proved and concluded that B had witnessed the father being violent to the mother. Within this context, the father's application for contact was refused. In 2014 the mother alleged twice that the father had raped her and later alleged that the father had forced her into prostitution and had acted as her pimp.
9. Within the foregoing context, care proceedings were commenced in 2014. The court initially acceded to an application to dispense with service on the father of the care proceedings but the father later became a party to those proceedings having been notified of them by the mother. In those proceedings, the father strenuously disputed the allegations summarised above. Within the care proceedings B indicated clearly to the allocated social worker that he did not wish his father to know anything about him and did not want to see his father.
10. B has had no contact with the father since the care proceedings concluded and has not expressed any interest in having contact with him. In December last year, B began to allege that, when at home, he and his sibling had witnessed adults being brought to the family home by the father and harmed by him with extreme violence. B further intimated that his father had killed people.
11. In April of this year the father contacted the local authority to request contact with B and his sibling, again taking the opportunity to deny the allegations of domestic abuse made by the mother. The social worker received advice from the social work team and a psychologist at the hospital to which B was then admitted that contact with his father would place B at risk of harm with respect to his emotional wellbeing and stability. At this time B continued to allege that his father had perpetrated violence against strangers and against his mother and stated a wish to kill his father and sever his genitals. Within this context, the local authority took the decision not to inform B that his father was seeking contact. The father has made no further efforts to pursue contact with B or his sibling.
12. Since October 2017 B has increasingly laboured under difficulties with his mental health, in addition to difficulties with drugs and becoming involved in criminal activity. Within this context, B has been the subject of hospital admissions pursuant to ss. 2 and 3 of the Mental Health Act 1983 from August 2019. B has displayed highly emotionally dysregulated behaviour, often in response to challenges within his family relationships. This behaviour has included ligaturing, head banging, setting fire to his clothes causing significant burns, secreting, and using a wide variety of items including his fingernails to cut at his neck, arms, legs and stomach, picking at wounds habitually, serious intentional overdoses where he has then refused treatment, standing on tram tracks, motorway bridges and reservations, running in front of cars and submerging himself completely and fully clothed in the bath. In October 2019 B was diagnosed with an attachment disorder, developmental trauma and post-traumatic stress disorder.

13. In May 2020, following a period in which there was considerable debate amongst professionals about whether B continued to fulfil the criteria for continued hospitalisation under the Mental Health Act 1983, transition planning commenced for B upon doctors advising that he no longer required admission to hospital. Very regrettably, the transition planning did not proceed smoothly and B was discharged sooner than intended. His mental health again deteriorated and he had incidents of overdose and self-harm. On 4 August 2020 B was detained under s. 2 of the Mental Health Act 1983 having threatened to stab staff, self-harmed and reported an intentional paracetamol overdose. Whilst that detention came to end on 17 August 2020, B remained in hospital whilst a further transition to a community therapeutic placement was sought.
14. Upon a placement being identified, the local authority issued proceedings under the inherent jurisdiction in circumstances where they considered that the placement would involve a deprivation of B's liberty. In light of the regime to which B was to be subject at his community therapeutic placement on 7 September 2020 I granted leave to the local authority to invoke the inherent jurisdiction and declared that it was lawful and in B's best interests for him to be deprived of his liberty. At that urgent hearing, I also listed the matter for a further hearing to consider the application to dispense with service of the proceedings under the inherent jurisdiction on the father.
15. Following the declarations made by the court, on 7 September 2020 B made a successful transition to a community therapeutic placement and has made what has been rightly described as "exceptional" progress since moving to the placement. This progress continues, with B having accessed virtual learning, completed a CV and expressed a wish to seek employment.
16. With respect to B's views on the instant application, on 8 September 2020 B informed the social worker that he does not want his father to be informed of these proceedings. He expressed anxiety about the impact of such a step on his mother's mental health and as to the risk of harm he perceived his family would be exposed to should his father be given notice. B continued to state that he wants to harm or kill the father. The mother informed the social worker that she fears that notice to the father will cause the father again to seek to contact her and the children and once again perpetrate a campaign of intimidation and violence against them. The social worker believes that the mother will have shared these concerns with B having regard to the social workers experience of the mother's conduct in the past.
17. On 30 September 2020 the Children's Guardian met with B to ascertain his views on the question of service of the proceedings on the father. B made clear to the Children's Guardian his objection to this course of action, telling the Guardian that he did not trust his father in circumstances where he had hurt the family in the past, had been domestically abusive to B's mother and had raped his sibling. Within this context, B made clear that he would not feel safe if his father had information about him, being particularly fearful of the father finding out his address. The Children's Guardian, rightly, put to B that the court could control the information provided to the father were he to be given notice of the proceedings. B responded with an even more robust objection, including stating to the Guardian his fear that simply being notified of the proceedings would prompt the father to ask questions and that this would have an adverse effect on B's mental health. B reiterated the sexual abuse he says the father perpetrated on his mother and his sibling.

18. In light of B’s history of mental health difficulties, and the fact that he has had no contact with his father for some ten years, the following statements by B regarding the impact of the service of the proceedings on the father are in my judgment of particular significance:

“It would increase my anxiety and make me feel unstable and unsafe. I have flashbacks about what he has done. I’d be too scared to come down the stairs. It would affect my day to day living.”

And:

“It feels like it’s still happening. I know it’s physically not, but it feels like it mentally is. I don’t feel safe from him knowing, it would put me on edge, even if he only knows about the DoLs, even if it was just my name and that there are proceedings that would be too much.”

19. Within this context, in the Position Statement prepared on her behalf the Children’s Guardian is clear in her view that that notifying B’s father of the proceedings would have a significant and detrimental impact upon B’s mental health which could potentially lead to a dramatic deterioration, with “potentially disastrous” consequences having regard to the history of B’s mental health difficulties and the nature and extent of his self-harm.
20. The matter now comes before the court for a determination of whether the requirement to serve the father with these proceedings should be dispensed with. As I have noted, all parties submit that, in the particular circumstances of this case, such an order is merited.

LAW

21. Pursuant to FPR 2010 r 12.3(1) a parent will be a respondent to an application for order an relating to the exercise of the courts inherent jurisdiction with respect to a child. Pursuant to FPR r 12.8(1) a person who is a respondent to proceedings *must* be served with the documents specified by FPR r 12.8(5), namely the application, the documents specified in FPR PD 12C and the notice any hearing set by the court. FPR r 6.36, entitled ‘Power to dispense with service’, empowers the court to dispense with the service of any document that is to be served in proceedings. By virtue of FPR r 6.1 and FPR r 12.8(7) the provisions for service contained in FPR Part 6 apply to these proceedings but are subject to the provisions of FPR r 12.8 and the direction of the court.
22. In *Re AB (Care Proceedings: Service on Husband Ignorant of Child’s Existence)* [2004] 1 FLR 527 Thorpe LJ considered that, in the context of care proceedings, the court has a general discretion to dispense with service of proceedings on a respondent, concluding at [3] that:

“Accordingly the local authority sought directions as to whether the Family Proceedings Rules 1991, r 4.7 and 4.8, as to parties to be joined and parties to be served, should be applied. Rule 4.7 and the schedule thereto inevitably require service upon any person whom the local authority believes to be a parent of the child. It is clear that the court has a general discretion to grant

exception from the requirements of the rules but that power is on the authorities only to be exercised in highly exceptional circumstances.”

23. This approach had its genesis in the decision of Stuart White J in *Re X (Care: Notice of Proceedings)* [1996] 1 FLR 186, in which the court relied on r 4.8(8) of the Family Proceedings Rules 1991 as clothing the court with a general discretion to decide whether or not proceedings should or should not be served. This was also the approach taken by Hedley J in *A Local Authority v M and F* [2010] 1 FLR 1355, again with respect to a father with parental responsibility, again under the Family Proceedings Rules 1991.
24. The terms of r 4.8(8) of the Family Proceedings Rules 1991, which permitted the court to direct that a requirement under the rules for a document to be served in proceedings shall not apply, are now reflected in r 6.36 of the FPR 2010, which empowers the court to dispense with service of any document which is to be served in proceedings. Within this context, by parity of analysis with *Re X (Care: Notice of Proceedings)* and *A Local Authority v M and F*, I am satisfied that, in an appropriate case, pursuant to FPR 2010 r 6.36 the court has power to dispense with service on a parent of proceedings for an order under the inherent jurisdiction notwithstanding the requirement for service contained in FPR r 12.8(1).
25. In deciding whether to exercise that power to dispense with service on a parent of proceedings for an order under the inherent jurisdiction, in *Re A (Father: Knowledge of Child's Birth)* [2011] 2 FLR 123 the Court of Appeal articulated the following principles governing the exercise of the court's discretion in the context of care and placement proceedings:
 - i) The starting point is that a father should know of the existence of his child or children and should be able to participate in proceedings concerning them.
 - ii) The court's task is first to identify the nature and extent of the harm in contemplation. The court should be rigorous in its examination of the risk and gravity of the feared harm.
 - iii) The exceptionality test does not require significant *physical* risk to be demonstrated. Harm and risk comes in many guises and there is no single path to exceptionality.
 - iv) When evaluating the risk of future harm, there is no minimum requirement. The greater the harm the smaller need be the risk. The risk of death may be very small, whereas the risk of turbulence in family relationships would need to be much higher.
 - v) The court is not determining a question with respect to the upbringing of the child so the welfare of the child, whilst an important consideration, is not paramount (as confirmed in *A, B And C (Adoption: Notification of Fathers And Relatives)* [2020] EWCA Civ 41 at [83]).
 - vi) Authorities in the Strasbourg jurisprudence put a high bar on exclusion. In this context, a high degree of exceptionality must be demonstrated by strong countervailing factors.

- vii) Cases involving well established relationships will almost never succeed in justifying exclusion.
26. In the earlier case of *A Local Authority v M and F* [2010] 1 FLR 1355 (not cited before the Court of Appeal in *Re A (Father: Knowledge of Child's Birth)*) Hedley J was concerned with a father who the police considered presented a wholly credible threat of harm to the mother and the children and who Hedley J found was “a man who rejoices in evil, is indifferent to consequence and is determined to visit his proclivity for evil upon the mother and the children”. In circumstances where the father had parental responsibility for the subject children and had lived with them, Hedley J considered that Art 6 and Art 8 of the ECHR provided the appropriate analytical framework within which to determine whether their existed exceptional circumstances justifying withholding notice from the father.
27. With respect to Art 6, Hedley J noted that the right of access to the court is not an absolute one and not every limitation or even exclusion is unlawful, highlighting the seminal passage in *Ashingdane v United Kingdom* (1985) 7 EHRR 528 at [57]:
- “... the limitations applied must not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired [and] a limitation will not be compatible with Article 6(1) if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.”
28. Within this context, Hedley J held that in considering the right of the father to participate in accordance with his rights under Art 6 the court should start with full participation then consider partial participation, effected in this case by the disclosure of redacted documents and then, only as a device of last resort, his exclusion from the proceedings.
29. With respect to the relationship between Art 6 and Art 8, and reminding himself that respect for Art 8 rights may also of itself have procedural implications, Hedley J highlighted the following passage in the judgment of Dame Elizabeth Butler-Sloss P in *Re H and G (A Child) (Adoption: Consultation of Unmarried Fathers)* [2001] 1 FLR 646 at [43]:
- “This raises the difficult question of the impact of the rights of other parties under Art 8, and the welfare principles, on the right to a fair trial. There must, however, in principle, be some qualification of the right of a party to be heard in proceedings. This would be likely to arise under two separate categories, namely, a policy decision of the court, in the exercise of its right to run its own proceedings within the requirements that there should be a fair trial, and, secondly, the practicalities of service on a potential litigant or his attendance at the hearing. There will be cases where notice to a father would create a significant physical risk to the mother, to children in the family, or to other people concerned in the case (see for instance *Re X (Care: Notice of Proceedings)*[1996] 1 FLR 186). That might result in the court balancing the fairness to the father of notice, against the real risks of the consequences of such notice.”

30. The procedural aspects of the Art 8 right to respect for family life have been held to be particularly important in proceedings concerning children and young people that are brought by local authorities, not only within the court process but also within the assessments and decisions undertaken by the local authority within the context of such proceedings. The local authority, when seeking to take protective measures in respect of a child or young person, is under a heavy obligation to ensure that all stages of the procedure are transparent and fair, both in and out of court. Art 8 requires the local authority to involve parents fully in the decision making process at all stages of the safeguarding process and in the formulation of a plan to protect the child's welfare (see for example *Re G (Care: Challenge to Local Authority's Decision)* [2003] 2 FLR 42 and *Re (Minors)(Care Order: Implementation of Care Plan)*; *Re W (Minors)(Adequacy of Care Plan)* [2002] 1 FLR 815).
31. Finally, with respect to the question of exceptionality, in *A, B And C (Adoption: Notification of Fathers And Relatives)* [2020] EWCA Civ 41 at [89] Peter Jackson LJ, having undertaken a painstaking review of the authorities dealing with notifying fathers of the birth of a child and/or of proceedings in respect of that child (including the authorities I have considered above), observed as follows in the context of adoption:
- “It has rightly been said that the maintenance of confidentiality is exceptional, and highly exceptional where a father has parental responsibility or where there is family life under Article 8. However exceptionality is not in itself a test or a short cut; rather it is a reflection of the fact that the profound significance of adoption for the child and considerations of fairness to others means that the balance will often fall in favour of notification. But the decision on whether confidentiality should be maintained can only be made by striking a fair balance between the factors that are present in the individual case.”
32. Drawing these threads together, in determining the local authority's application for an order dispensing with service of these proceedings on the father, I am satisfied that I should apply the following legal principles in deciding whether to exercise my power to dispense with service of proceedings for an order under the inherent jurisdiction on a father with parental responsibility:
- i) The starting point is that a father should be able to participate (in a wide sense) in proceedings concerning his child. The court should start with full participation then consider partial participation and then, only as a device of last resort, the father's exclusion from the proceedings.
 - ii) The court's task is to identify the nature and extent of the harm in contemplation. The court should be rigorous in its examination of the risk and gravity of the feared harm.
 - iii) There is no requirement that a significant *physical* risk be demonstrated. Harm and risk comes in many guises.
 - iv) When evaluating the risk of future harm, there is no minimum requirement. The court must be alert both to the risk and to the magnitude of the consequences should the risk eventuate, and must also consider whether and to

what extent that risk can be managed by the court's control of its own processes. The greater the harm the smaller need be the risk.

- v) The court is not determining a question with respect to the upbringing of the child so the welfare of the child, whilst an important consideration, is not paramount.
- vi) Authorities in the Strasbourg jurisprudence put a high bar on excluding a parent with parental responsibility. In this context, where a parent has parental responsibility or a right to respect for family life under Art 8, a high degree of exceptionality must be demonstrated by strong countervailing factors to justify their exclusion from participation in the proceedings.
- vii) It must be remembered that exceptionality is not, in itself, a test or a short cut and a fair balance must be struck between the factors that are present in the individual case.

DISCUSSION

- 33. As I announced at the conclusion of the hearing, I am satisfied in this case that it is proper to dispense with the requirement to serve the father with these proceedings. My reasons for so deciding are as follows.
- 34. The nature and extent of the harm in contemplation in this case is very serious. I am satisfied that a rigorous examination of the risk and gravity of the feared harm in this case demonstrates that were the father to be served with these proceedings there would be a very high risk of serious harm to B.
- 35. B is an extremely vulnerable young person. He has been the subject of extensive private and public law litigation during the course of his childhood. During the course of the public law proceedings, the court was satisfied that B had suffered significant harm. On B's account he suffered physical abuse at the hands of his father, witnessed his father physically and sexually assault his mother and sexually abuse his sibling. More recently, B has alleged that others were harmed in the family home by his father in a graphic manner, including an allegation that the father killed people. Whilst I bear carefully in mind that the father has consistently indicated that he disputes these allegations, from B's perspective I am satisfied that these matters continue to be very real for him, as indicated by his repeated statements of a wish to mutilate or kill his father, and continue to generate in him a great deal of emotional instability and distress.
- 36. The consequence of the situation described in the foregoing paragraph has been the chronic disruption of B's childhood in terms of stability, security and identity, with the mother and the children being required constantly to change location and B being required, it is said, on a number of occasions to change his name. Within this context, B now struggles significantly with his mental health and is struggling with his gender identity. The court does not have expert evidence before it with respect to these matters, but B has a diagnosis of attachment disorder, developmental trauma and post-traumatic stress disorder.

37. Within this context, and as I have set out above, the court must be alert both to the risk of harm *and* to the magnitude of the harm should that risk eventuate and must also consider whether and to what extent that risk can be managed by the court's control of its own processes. The greater the harm the smaller need be the risk.
38. Since the implementation of the current transition plan on 7 September 2020 B is making considerable progress when measured against the grave difficulties that he has experienced prior to that date. Given those previous difficulties, progress by B, however modest, is extremely valuable. It is also extremely fragile at the current time. Having regard to the history of this matter, I am satisfied that any disruption to B will result in an appreciable risk that his mental health will deteriorate markedly. Within this context, the court cannot ignore the fact that, in the past, such deterioration has resulted in conduct that has included ligaturing, head banging, setting fire to his clothes causing significant burns, secreting, and using a wide variety of items including his fingernails to cut at his neck, arms, legs and stomach, picking at wounds habitually, serious intentional overdoses where he has then refused treatment, standing on tram tracks, motorway bridges and reservations, running in front of cars and submerging himself completely and fully clothed in the bath. This conduct has resulted in B being the subject of detention pursuant under the Mental Health Act 1983.
39. Within the foregoing context, I am satisfied that both the risk of harm and the magnitude of the harm should that risk eventuate in this case is high. In my judgment, giving the father notice of the proceedings will lead to a high risk that B will be caused significant emotional distress, thereby risking the stability of his mental health. I am further satisfied that should his mental health deteriorate consequent upon learning that the father has been served with proceedings concerning him, there is an equally high risk that B will cause himself, and possibility others, very serious harm to the point where it may once again become necessary to detain him pursuant to the provisions of the Mental Health Act 1983. In this context, I remind myself that the welfare of B is an important consideration for the court, although not paramount in this context.
40. I am reinforced in this view by B's own statements regarding the impact on him of his father being served with proceedings. Given B's age I am satisfied that the court should accord weight to B's views with respect to the issue that is before the court. In this context, I note in particular that B makes clear to the court through his Children's Guardian that he believes his mental health will be significantly destabilised if his father is given notice of the proceedings. One again, an in the context of the risks I have outlined above, I consider the following statements by B to be of particular significance:

“It would increase my anxiety and make me feel unstable and unsafe. I have flashbacks about what he has done. I'd be too scared to come down the stairs. It would affect my day to day living.”

And:

“It feels like it's still happening. I know it's physically not, but it feels like it mentally is. I don't feel safe from him knowing, it would put me on

edge, even if he only knows about the DoLs, even if it was just my name and that there are proceedings that would be too much.”

41. Within the foregoing context, I am also satisfied that I must give significant weight to view of the social worker and Children’s Guardian that giving notice of these proceedings to the father would be extremely detrimental to B’s mental health and, in consequence, would represent a significant risk of emotional and physical harm to B in the context I have set out above.
42. Against these matters, and in circumstances where the father is not before the court, I have borne carefully in mind the arguments that would likely have been raised on his behalf were he to be represented on this application.
43. In particular, I have borne in mind that he is the father of B and, it would appear, has parental responsibility for B. Within this context, I am mindful that relatively recently the father expressed a desire to re-commence contact with B. Against this, there has been no contact between B and the father for a number of years and B has no current relationship with his father, nor does he, at the age of 17, wish for one. Within this context, this is not a case in which the father has a well-established relationship with the child.
44. I also bear in mind that the evidence before the court indicates that the father has repeatedly disputed the allegations that ground B’s expressed concerns regarding the father being given notice. However, whilst this is an important consideration when examining the risk of harm and the magnitude of that harm should it eventuate, I am satisfied that in the context set out above it is equally important to acknowledge and take into account that, whatever the objective truth regarding the nature and extent of the father’s conduct, B considers that conduct to have been brutal, frightening, reprehensible and damaging to him emotionally and physically. Within this context, in my judgment the magnetic factor in this case remains the risk of harm to B’s mental health, and hence his physical safety, that is likely to manifest if the father is given notice of these proceedings and the magnitude of that harm when it does.
45. Finally, it may have been argued on behalf of the father that his participation could be facilitated by notice of the proceedings being given to him followed by the careful management of the material disclosed to the father from the proceedings. Within this context, I have borne in mind that in considering applications of this nature the court should start with full participation then consider partial participation and then, only as a device of last resort, the father’s exclusion from the proceedings. However, I am satisfied in this case that it is the fact of notice *per se* that grounds the high risk of harm in this case and the magnitude of harm that would eventuate should that risk manifest. In my judgment, in the context of the matters I have set out above, the risk I have identified is not capable of being addressed by giving the father notice of the proceedings but limiting his participation in the proceedings, whether by the control of disclosure or otherwise.
46. Within the context of the factors I have set out above, I have been careful to bear in mind at all times that exceptionality is not, in itself, a test or a short cut and a fair balance must be struck between the factors that are present in the individual case. However, I am satisfied that in this case, a balancing of the factors does demonstrate the necessary high degree of exceptionality demonstrated by strong countervailing

factors to justify the father's exclusion from participation in the proceedings, which in my judgment would give rise to a high risk of destabilising B's fragile mental health, prejudicing his recovery and resulting in an equally high risk of serious emotional and physical harm to B.

CONCLUSION

47. In conclusion, the court will always hesitate before concluding that it is appropriate to dispense with service on a parent of proceedings concerning their child. However, for the reasons I have given, I am entirely satisfied in this case that this is the necessary course. In the circumstances, I direct that service of these proceedings on the father shall be dispensed with.
48. That is my judgment.