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Case No: FD12P00090

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28/03/2014

Before :

MRS JUSTICE PAUFFLEY

Re L and M (Children: Private Law)

R.C. Kingsley for the father
Meryl Hughes for the mother
Susannah Jones for the Children's Guardian, Sue Warren

Hearing dates: 24th – 26th March 2014

Judgment

MRS JUSTICE PAUFFLEY

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Mrs Justice Pauffley:

Introduction There were several good reasons for arranging a three day hearing in these private law proceedings. First, to determine why, over so many years, there have been problems in achieving good quality or indeed any contact between the children and their father. Second, to establish whether there is a feasible way through the apparent deadlock between the two conflicting sides. And third to consider whether the time is right to make final orders so as to bring the litigation to a decisive end.

When the case began, there was no proper basis for knowing how it would end. I had no preconceptions. As so often happens, clarity came as the case unfolded particularly when, over several hours, the parents gave their evidence. By the end of the process, it had become very straightforward indeed to identify the origins of the problems. In the result, there is no difficulty either in formulating welfare decisions for the children.

My only regret is that for what appeared to be justifiable reasons at the time, this hearing was not convened about a year ago, in the spring of 2013. The impact of the delay from the children's perspective has been to protract an already onerous process almost beyond endurance. All I can say is that, with the benefit of hindsight, I should not have been enticed towards the model of therapeutic assessment and possible treatment. I should have set the matter down for hearing rather than pursue a process which would have been most unlikely to result in any kind of success within a timescale that was remotely acceptable from the children's perspective.

The issue as to the orders which should be made at the end of the hearing is relatively narrow. It is as to whether the proceedings should be brought to an end by the making of an order for only indirect contact; or, instead, continued with provision for there to be a 'family meeting' within a psychotherapeutic setting. In order to answer that question it has been altogether necessary to develop a good understanding of the reasons for the current as well as past difficulties.

Essential background

The essential background is as follows – The parents married in 2000. Their children are L (a boy) who is nearly 13 years old and M (a girl) who is 9. At first the family lived in England, the mother's home country. In August 2004, the father moved to his native

Israel where he had found employment. The mother and children joined him there in November that year. The marriage was unhappy. The parents separated and then reconciled on several occasions in 2004, 2006 and 2007. In 2006, in Israel, the mother applied for a court order giving her temporary custody. Early in 2007, the father successfully applied for an injunction to prevent the mother from taking the children out of the country. In March of that year, when the parties again reconciled, the injunction was discharged.

The Hague Proceedings

In July 2007, the mother unilaterally removed the children from Israel and brought them here. An application for summary return under the Hague Convention was launched in June 2008. The proceedings were contested on a number of bases – habitual residence, consent, acquiescence, grave risk of psychological harm or other intolerability and the older child’s objections. Both parents were represented by specialist Counsel. In late September, at the first ‘final’ hearing, evidence was heard from Mr Reilly of the CAF/CASS High Court team. There was then an adjournment at the judge’s suggestion for the parties to consider mediation. No consensus emerged. When the application was re-listed in mid October, oral evidence was heard to elucidate the habitual residence, consent and acquiescence questions.

Macur J (as she then was) found the father to be *“impulsive, highly emotional and hot-headed with little self restraint...unreliable in his evidence in that he denies, mitigates or otherwise seeks to excuse various incidents of domestic violence. “* She also found that his evidence on other issues was *“largely credible and supported by extraneous facts and documents.”* Macur J found the mother *“was demonstrably willing to obfuscate, lie and manipulate the evidence to her own ends; sufficiently intelligent to ‘see what was coming’ and ameliorate her response accordingly. In that she did so ... it was an act of desperation with a view to maintaining the status quo and does not or should not necessarily mark her evidence on all matters as unreliable in future proceedings.”*

In that part of her judgment which dealt with the ‘child’s objections’ exception, Macur J referred to two occasions of contact – the first between the children and their father in over 12 months. A Mrs Clasby who was said to know the children and had supervised the contact, commented to Mr Reilly that the children were being damaged by both their parents and were the recipients of stories from both. The judgment relates that the children who had expressed an intense dislike of their father and had been *“unable to make any positive comment or recall, quickly became relaxed in his company and enjoyed it.”*

On the second occasion of pre-hearing contact, according to the judgment, the children

“’searched’ the father for recording equipment as a result of something said in their present home shared with mother and grandparents. This, suggests parental alienation at the hands of the mother or her parents. It is reprehensible behaviour. I note that the mother has amassed support for her cause from the ranks of many friends and acquaintances. There is a danger that the father becomes demonised in the child’s eye to his / her ultimate detriment.”

In the concluding paragraphs of her judgment, Macur J said this ... *“the parties are intractably set upon pursuing their own respective agendas as to forum and will brook no compromise... The making of this decision gives the father little incentive to mediate. (He) may wish to reflect that the vindication of his action does not necessarily mean that a return to Israel will promote the overall best interests of these children. For good reason or bad they are now settled in the United Kingdom. The children remain fragile and vulnerable to events around them regardless that it is not evidenced to the extent as to engage the Article 13B exception. His relationship with them is important but his protection of welfare should be his paramount consideration.”* Macur J reiterated her invitation to the father to once again *“consider his position in relation to the forum which will determine the remedy he seeks, bearing in mind the present circumstances in which the children ... find themselves.”*

The father seemingly was not inclined to heed that advice. The mother and children returned to Israel. There was fortnightly staying contact as well as a weekly evening visit after school.

L’s psychological well being began to cause serious concern. He was distressed, apparently depressed and had expressed a death wish claiming he was not meant to be born. In May 2009, L was examined by a child and adolescent psychiatrist in Tel Aviv; she concluded her report by saying that he was suffering from an adjustment disorder with depressional reaction. She recommended individual therapy and an end to the legal dispute, *“as soon as possible in order to provide stable surroundings for the boy.”*

A couple of months later, in July 2009, an educational psychologist reported that although there was *“severe tension between the parents, nevertheless regular visitation rights are strictly adhered to.”* She recommended individual psychological treatment or alternatively emotional therapy. L’s emotional state did not improve. Israeli Social Services’ records show that by mid December 2009, L was on the brink and was believed capable of committing suicide. Because of the children’s difficult and deteriorating condition, if there had been no agreement between the parents as to relocation, the Social Services department would have applied to the court, asking for an order as to how to protect the children’s safety. The child and adolescent psychiatrist is reported as saying

that had the children remained in Israel, both would have ended up in a psychiatric ward.

In January 2010, a comprehensive agreement was reached enabling the mother and children to relocate to England. There was provision for extensive indirect as well as staying contact on three occasions each year in Israel. The children's school holidays were to have been divided. If the father were to be in England, then he would see them here twice a week. It was the mother's obligation under the agreement to present a translated version of the Israeli consensus to the English court for recognition and enforcement purposes.

In mid March 2010, the father sent an email to M. The subject was "my LOVELY CHILDREN." He wrote in a large font, "Please call Daddy !!!! You can ask your teacher to dial the number, and that I will send a cheque to pay for the call !

In May 2010, the father was in touch by 'phone and email with a Rabbi, local to the children in England, asking for assistance in re establishing communication with them as it had been "impossible for (him) to call or reach them at the place where they live."

In July 2010, unbeknown to the mother or children, the father remarried.

No arrangement for contact that summer was made. On behalf of the father, Mr Kingsley suggested the mother should have been proactive in setting up the travel plans. But there would appear to have been no request either by or on behalf of the father in relation to contact.

In late March 2011, the father sent another email to the children again entitled "my LOVELY CHILDREN." The message, all in capitals, read "L AND M DARLING HOW ARE YOU?????"

In April 2011 at the end of a one day financial remedy hearing, an order was made by consent for telephone and then visiting contact for four hours the following weekend, the first half hour to be in the presence of the Rabbi if available.

In early May 2011, the father spoke with one of the children over the phone, believed he heard the other say, "*stop beating me*"; and there was "*screaming and crying*." The father called the police who went around to the mother's home to check on the children's wellbeing.

By June 2011, as the result of L's increasingly anxious state, he was assessed for therapy by a consultant child and adolescent psychiatrist. L reportedly had physical symptoms of chest pain, headache and dizziness. In the psychiatrist's opinion, he showed symptoms of post traumatic stress disorder with avoidance, nightmares, increased irritability and possibly impaired concentration.

Litigation history – these proceedings

In about January or February 2012, the father began these proceedings. As the result very largely of the international history and also because L was in receipt of psychiatric treatment, they were allocated to the High Court. Orders were made in July 2012 by Moor J for the mother to make M available for have interim contact on two separate days in July 2012, the first to be supervised by the Children's Guardian.

In late September, Her Honour Judge Coates, sitting as a Judge of the High Court, made further provision for contact between M and her father on two occasions in October. The first occurred; the second did not.

My first involvement with the case was in late November 2012. I approved what was offered as an agreed way forward. A direction was made for family assessment by a consultant family therapist, Dr Honig. His comprehensive report of 1st March 2013 recommended a coordinated therapeutic programme. In May 2013, I agreed to the course of counselling and therapy as suggested by the parties. The father had agreed to pay half the costs and was exploring charitable means for the balance. In October, there was a meeting with the nominated therapist, someone other than Mr Honig, who said she was unable to assist them and that he would be better placed to do so.

As it turned out, that was the end in terms of attempting to pursue a therapeutic route. Given that the information at this hearing has been that only £1,800 is available to underwrite the cost of any such programme, it is obvious that such a scheme was not viable for anything other than an extremely short term intervention. The mother, who works only part time in relatively lowly paid employment, is quite simply unable to afford to contribute. The father who, similarly, only works part time cannot afford more than the sum already mentioned.

Miss Burden, the children's Solicitor, restored the proceedings to court. On 18th November 2013, I set the matter down for hearing and made clear my intention to investigate the essential causes for the difficulties between the children and their father.

The parties' positions

I turn then to consider the parties' overall positions not just from what is said on their behalf but, more materially, from what they have said in evidence.

The father's obvious and heartfelt ambition is to reach the point at which he might once more have a relationship with the children and direct contact. His request is for a 'family meeting' which, says Mr Kingsley, would be on balance worth the risk; and the children's reaction at such a meeting could be an "eye opener." Every effort should be made, submits Mr Kingsley, to keep some relationship going between the children and their father; and there is "every hope" that if it were to be properly conducted, within appropriate parameters, it would be helpful. The consequence for the litigation would be a review; and even if it takes some weeks or months that would be justified, he argues, in the children's long term interests.

In his evidence, the father made clear he has never stopped loving the children from the moment they were born. He thinks about them every hour; they are the most important thing in his life. He emphasised how he is "*really strongly disappointed – if not angry – for trusting*" the mother when she came to England. He has had, he said, "*even more pain*" for that; and he has "*got to hate (him)self for allowing the children to go, because he had been seeing them every week.*" It is (he said) "*extremely painful.*"

Overall, and running throughout the father's evidence, there was a thread of his extreme distrust of the mother. He sees her as having "*kidnapped the children five years ago*" and as having "*legally and emotionally kidnapped them four years ago by failing to register and enforce the Israeli agreement.*" The father believes the mother has "*tampered*" with his relationship with the children. He has had, he says, "*six years experience of very strong tampering*" on the part of the mother; and he feels that "*only direct contact will allow (his) bond with the children to reconnect.*"

His extremely strongly belief is that all of the current problems arise from the mother's actions. He came to a decision some time ago, he said, that he would never again let anyone call him violent. He made clear to the family therapists in England last year, he said in evidence, that the mother is "*either bad or mad or God forbid it should be both.*" He agreed he did question at the meeting how it could be right for the children to live with their mother and grandparents in that "*context of being poisoned*" against him.

Miss Hughes, on behalf of the mother, suggests there is no proper basis arising out of the many experts' reports for concluding that her client has gone about an exercise of

indoctrinating or alienating the children from their father. Miss Hughes submits the evidence has shown the mother to be reflective, receptive of advice when offered and very child focussed. Her overall position, on balance, is that the proceedings should be concluded by an order for no direct contact.

In evidence, the mother described how she wants the children to have a good relationship with their father and hopes things will be better in future than they have been in the past. It saddens her that the father has not asked what he might be able to do to assist in preparing L for his Barmitzvah. She said it would be good if he could be present but, sadly, if he were then L would not enter the synagogue because he is so anxious. Overall, it is the mother's belief that it would be helpful if the father "*could put himself in the position of the children and see how, from their point of view, they would feel about someone getting angry and shouting.*" She explained that the "*last thing that (she) would want as a mother is to see the children suffering.*"

On a couple of occasions, when describing the children's anxiety and their associated physical symptoms, the mother became overwhelmed by distress. As she described their suffering, her own was manifest.

Mrs Warren, the Children's Guardian, in the light of the children's strong and consistently held views, suggests that to effectively force contact would leave them feeling scared and anxious. There would, in her opinion, be a detrimental impact on their well being. Thus, it is Mrs Warren's advice that, sadly, there is no alternative to bringing the proceedings to a conclusion with an order for no direct contact. Most helpfully, Mrs Warren has gained management approval for the notion that she might be the nominated officer under a Family Assistance Order so as to assist the parents and children over the next 12 months in relation to indirect contact – in particular letters, cards and occasional presents.

The reasons for the problems

So why has the relationship between the children and their father been so fraught? There has been, it seems to me, no one cause but rather a combination of interrelated factors each of which has played a part in events over the past six years.

a) Poor dispute resolution skills

I was extremely interested in Mr Honig's view which is that at no time in their relationship had the parents been able to successfully develop a way of communicating with each other to a point where they could resolve conflict. He went on to say that in the

absence of those skills, they had been “*unable to call upon a problem solving foundation when times became tough between them.*” Mr Honig also said that the parents’ relationship was currently “*characterised by a need to fight one’s corner and to have a monopoly on the ‘truth’ when describing the past. There is very little space for considering that different perspectives can be valid... There is, in fact, an intolerance of difference.*”

The father, according to Mr Honig, has “*rather minimised the legitimacy of his son’s feelings, whilst the mother has adopted the polar opposite position.*” She is, he says, “*extremely sensitive to L’s feelings of distress and seems to have a core belief that she should protect her children from any upset. Whilst this is a natural desire for any parent to hold, it has to be balanced alongside another parental task which is to promote in one’s child their capacity to face challenging situations rather than avoid them.*”

Mr Honig’s opinions seem to me to be entirely apposite.

b) The parents’ personalities

The parents are, without question, very different in personality terms. The father is a natural extrovert. He feels things passionately and expresses himself with great emotion. Though English is not his first language, he had no difficulty whilst giving evidence in finding the English words and he did so with considerable emphasis. The father is nothing if not self – assured. He portrays himself as very confident indeed, to the point of arrogance, about his own position; and will not countenance the suggestion that in anything he has done there has been fault on his side. All the blame, as he sees it, rests fairly and squarely with the mother for whom he had not one good word to say. At one stage he referred to her as suffering from Munchausen Syndrome in that, as he sees it, “*the children are being psychologically and emotionally kidnapped.*”

The father is strong on the subject of his rights but weak in relation to understanding any issue from another individual’s perspective. In short he seemed to me to lack emotional intelligence, to be devoid of empathy particularly in relation to the mother and children and to have only marginal insight into the effect of his actions. He is used to getting his own way and reacts badly when thwarted. Clearly he did not welcome the process of cross examination. Even before Miss Hughes began her questions, the father had folded his arms in a defensive action. He looked as though he was ready for confrontation and determined to ‘win the contest.’

The mother is fragile. However, she presented at the hearing before Macur J in 2008, she

was anything other than confident and self assured at this hearing. I considered, but rejected, the possibility that she was portraying herself differently, and deliberately so, at this hearing. I strongly suspect that the impact of the last six years has been to erode and diminish the mother's confidence. She has lived through what she has perceived to be traumatic times – and it shows.

The mother is undoubtedly intelligent, articulate and highly motivated to protect the children from harm. It seems to me that because of her own distress and vulnerability, she has been unable to absorb and manage some of the children's anxiety in the way that a more robust individual would.

c) the children's experiences and emotional fragility

The children, like their parents, have lived through rough times. L, quite obviously, is a sensitive young person and has been highly anxious about the prospect of having to see his father. His psychological problems stem from the time when he was only 8 years old and in Israel against his wishes. M may have a slightly more outgoing, confident personality than L but she, too, becomes introverted and anxious when speaking of her father. L attributes the improvement in his anxiety symptoms to the absence of any contact with his father and is extremely concerned that if contact were ordered his symptoms would return. M has recently been receiving professional support for nervous tics, experienced by her as embarrassing and stressful. Her mother described M as having had problems recently with breathing properly and an increased heart rate. It seems her symptoms are related to panic at the prospect that she might be made to see her father. Since November and in the lead up to this hearing, both children have been in a heightened state of anxiety.

d) the legacy of the Hague proceedings and enforced return to Israel

The legacy of the Hague proceedings and of the period in Israel before there was agreement that the children could return here with their mother would seem to me to have been very considerable indeed. The impact of those times upon subsequent events is all too easy to see. In September 2008, when she adjourned the hearing, Macur J must have made clear, taking account of Mr Reilly's evidence, that the parents should find a way of responding to the children's welfare needs. At the conclusion of her judgment she reiterated the same message. The father was unmoved.

Asked about his decision not to permit the children to come back to the UK earlier, the father said, "*No – retrospectively, I do not believe I should have allowed (that). Every*

single day (he) had been with the children it was a blessing ... At least (he) had a year and a few months of happiness ... (he) knew they were happy and had a good time with (him)."

All of the available professional evidence – from Mr Reilly, the psychiatric, psychological and social services – suggests that for L in particular the period between the middle of 2008 and early 2010 was intensely difficult. Living through that period in which L's psychological well being was deteriorating so markedly must have been quite extraordinarily traumatic for this mother who feels her children's distress so very acutely.

e) Recent attempts at contact between the father and M

The attempts at reintroducing contact between April 2011 and October 2012 were nothing short of disastrous. On none of the four occasions did the visits proceed smoothly. In April 2011, at the Rabbi's house there was a problem when early on the father attempted to take the children out of the house. He said in evidence he had "*learned something very important that day – that (he) should stop being trapped by (the mother's) manipulative schemes.*" The father said he "*strongly felt the Rabbi's wife was proxy for the mother; that the children had been made to feel (he) was dangerous, should be scared of going out with (him) and that had been planted in their minds forever.*" The father said he had seen "*victory in M's eyes and disappointment in L's eyes. It was as if they were saying, 'Yes we won' against (him).*"

The mother's account, derived I suppose from the children and / or the Rabbi's wife, is that within 10 minutes of arrival, the father had forcibly attempted to remove the children from the house. L had hung on to the banisters. M had locked herself in the bathroom but the father had used a card to open the door. He had then carried her out of the house screaming. Two passers by had asked if they should call the police. They attended and it was agreed that the father would remain in the house.

On the second occasion of contact, Mrs Warren supervised. M was very reluctant to leave her mother. M cried throughout and whilst there were tears in her eyes at first as time wore on there were no visible tears, just pained cries and sounds. At one point in Mrs Warren's opinion, M was almost hyperventilating. After half an hour, the decision was taken to stop because M was so distressed.

Two days later, in a public place, when the mother was present whilst contact occurred M cried almost throughout the visit. The mother tried to leave on a number of occasions; in the end she had to physically prise M from her. M's distress was so great that members of

the public inquired as to whether she was all right and called for ‘security.’ When the mother returned, M became more settled and went in to a shop alone with her father. The visit overall though was difficult and distressing.

On the last occasion when there was contact, in October 2012, the parents met in a shopping mall. The father said M had “*basically put her head in her arms ... (he) could see her playing with him with one eye. She was crying and screaming but her facial expression had said, ‘I know Dad, leave it!’*” The father said he had “*felt there was strong psychological pressure (upon M) not to interact with (him).*” The father agreed he was chanting – nursery rhymes in Hebrew – a song he had been used to singing to M – “Please God Almighty protect and embrace her”

The father volunteered that he had been filming M during that visit “*against her will, so (he) could see it later on. It was for (him and his) family.*” He also said he “*had told her she could not prevent (him) filming her.*” He “*specifically remembered telling her, the only right (he had) was to film her. She could not ask (him) to stop filming her.*” He had told M that, he said, “*in a kind way.*” Later, in cross examination, the father accepted that “*maybe it had been awkward*” for M that he had filmed her but thought that “*questionable particularly because (he) had not had photographs of her for four years.*” Ultimately he said he had been “*wrong to put his wish to film*” M at the forefront but he “*did not know when he would see her again.*”

According to the mother, the father said exactly the same about her being “*mad or bad or God forbid it should be both*” in M’s presence and hearing at contact that day.

f) Examples of the father’s insensitivity and lack of insight

There are, it would have to be said, other notable examples of the father’s insensitivity and lack of insight. I mention them in headline form.

His emails typed in capital letters, perceived by the children as equivalent to him shouting.

His unduly pressured message accompanying an Amazon present, “To my beautiful daughter M. Praying every day that God Almighty will allow us to be together very soon.”

His introspective, almost delusional, reason for having failed to communicate with the

children by letter every month as he could have done – namely that whilst he had been living with the mother in Israel he had seen her sitting down and analysing every word of someone else’s letter. Thus he has not written to the children so as to prevent the possibility of such a process.

His strange decision to keep the mother and children in ignorance of his remarriage on the basis, as he said in evidence, that he “*felt he was betraying*” the children and should “*protect them from that aspect.*” The truth surely is that, for his own selfish reasons possibly financial, I know not, he did not want them to know.

His ‘phone call to the police in May 2011 which led to what must have been a worrying visit by police officers to the children’s home. Knowing the mother as he does, he must have realised that neither of the children would have been at risk. It was a mischievous referral designed only to make trouble.

In his recent interactions with M, his efforts to engage her have centred upon old photographs from their past in which, self evidently, she had little interest.

Is there evidence that the mother has manipulated the children?

In answer to the question as to whether the mother has manipulated the children and thereby alienated them from their father, I am entirely confident she has not. Whatever the situation which confronted Macur J in the autumn of 2008, there is no basis, other than in the father’s imagination, for concluding that the mother has set about a process of seeking to influence the children against their father. The reality of the situation is that by his actions over the years, as they have grown to appreciate the way in which he has sought to control events in their lives, the children have come to their own conclusions about their father’s behaviour.

Both L and M have been clear and unambiguous in their discussions with Mrs Warren and others, notably L’s therapist. The children have been adamant that what they have described as frightening events involving their father are their own memories. They have experienced them. It is not the case that they have heard others talk about events which they have then related.

Both children have said that their mother does not speak negatively about their father but will mention things he used to like doing or was good at. They have also told Mrs Warren that their mother asks them if they would like to phone or email their father and she has

said that if they wanted to see him, she would be OK about that.

During the course of her evidence, the mother went a good deal further than might have been expected in signifying her agreement to forms of indirect contact – for example Skype and ‘phone calls – for which Mrs Warren does not believe the children are yet ready. The mother was also very interested in Mr Honig’s view about the power of her parents’ silence in relation to the father. I gained the distinct impression that she intended to go home and begin the process of enabling her own parents to talk positively and freely about the father because she now realises how beneficial that would be for the children.

It is also significant, when considering whether there is any basis for believing the mother has been any kind of toxic influence that during the course of her evidence there were moments when she expressed spontaneous warmth towards the father. She talked about his *“beautiful handwriting,”* how *“brilliant he is at Maths which is why the children are good at it too.”* Likewise, as to M’s language ability which is *“thanks to her Dad.”* A little later on the mother spoke about how she tells the children of their father’s love for them and that he really does have a lot to offer them. She hopes that, in the future, *“things will improve and believes that birthday presents and cards would be a really good start.”* She also said she would *“love to be able to discuss the children’s schools, work, religion”* and would value the father’s input if there could only be *“two way respect; no threats at all.”*

Welfare determination

I turn then finally to my welfare determination and consider the father’s request for the continuation of the proceedings as well as provision for a therapeutic family meeting. Mrs Warren suggests the children would find such an event *“very worrying, they would not understand its purpose.”* They have had, she said, *“so many experiences of contact that did not go well. It would be perpetuating a process which they want to end.”*

Mr Honig said he would worry that any such meeting would be *“emotionally laden for all the participants. The father has struggled with so many emotions when he’s feeling aroused. If it did not go well, the children would find themselves in a position of having gained nothing positive.”* Mr Honig would have been more encouraging about the notion of such a meeting if it had been planned for the beginning of therapy.

I have considered but ultimately rejected the idea of directing there should be such a meeting because, in my assessment, the children would be strongly averse to participating. In addition, they would be exposed almost certainly to more of the father’s impulsive behaviour. He may not be able to prevent himself once more denigrating the

mother, openly accusing her of alienation or 'brainwashing.' There would be, in all probability, nothing positive for the children as the result of such a meeting. Rather they would be caused further emotional harm and at a stage in their recovery when they are simply too vulnerable to be exposed to that risk.

Seldom is it necessary to decide that in the interests of a child, only indirect contact should be ordered. Ordinarily, it is very much in children's welfare interests to be able to know their absent parent and consolidate that relationship by regular, liberal and flexible direct contact. Here there are compelling reasons for concluding that their relationship with their father should be limited to indirect contact by occasional cards, letters and presents.

There will be a Family Assistance order pursuant to s.16 of the 1989 Act for 12 months. The nominated officer will be Mrs Warren; and it is immensely beneficial, from the children's perspective, that CAFCASS has agreed to Mrs Warren's appointment. I would hope that she will be able to assist the father in the exercise of writing suitable letters to the children. He needs help to make his messages appropriate and 'child friendly.' There's nothing worse than an email suggestive that the sender is shouting at you. Neither L nor M deserves to feel they are being placed under any kind of pressure to do what their father would want them to do. He has to allow them to feel they have autonomy. He must respect them and, crucially, he must show them that he respects their mother.

Writing to children of these ages is not difficult. It's very straightforward to concentrate on those areas which will be of most interest to them. It's been most unhelpful that in 2012 the father sought to occupy M by showing her photographs from the past. Children live in the present. They have absorbing lives filled with activities of many kinds. The father should be concentrating upon those things which interest the children rather than his own agenda. Most of all, the requirement should be for light rather than emotionally laden messages.

Finally

Lastly, just this. I'm very conscious that this judgment, in many respects, is strongly critical of the father. It has been necessary to investigate the causes of the problems and it is in that context the criticisms of him have arisen. In other circumstances, doubtless the father can be very charming. I am sure there is a softer side to his nature; and that he can be an entertaining companion both with other adults and children. Mrs Warren's role, in part, will be to enable the father to bring those parts of his personality to the fore and to relinquish, or at least manage, his anger.

The task now for the adults, including Mrs Warren, is to seek to make progress in restoring some kind of relationship between the children and their father, albeit at a distance. There are several small acts of kindness which the father may wish to consider. He could provide the mother with occasional financial assistance for the children enabling her to purchase items she would otherwise struggle to afford. He could send the mother messages wishing her happiness at the times of Jewish holidays – Rosh Hashanah, Succot, Hannukkah and Passover. It should be straightforward for some dialogue to begin between them centred upon the children’s achievements.

It is all about respect; and a willingness to start again in the process of trying to interact as parents in a way which will enhance rather than harm their children. I wish them every success in that endeavour.

<u>MRS JUSTICE PAUFFLEY</u> <u>Approved Judgment</u>	MACROBUTTON AddShortTitle Double-click to enter the short title
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