

A LOCAL AUTHORITY v J
[2008] EWHC 1484 (Fam)

Family Division

Hogg J

24 June 2008

*Adoption – Contact – Post-adoption contact with mother or with half-siblings
– Whether to be ordered*

*Care – Welfare – Parenting assessment – Whether failure of emotional care
and failure to co-operate justified adoption – Whether post-adoption
contact with family members to be ordered*

The mother had three children by three different fathers, aged 12, 9 and 15 months. The local authority brought care proceedings concerning all three children. The father of the youngest child had been found to have seriously sexually assaulted his own 6-year-old son by a different mother, and also two nephews when they were teenagers. He was considered to be a man who presented a risk of significant harm to children. The father maintained that he was innocent, and that his whole family believed him to be innocent. The mother had found it very difficult to accept that the father might represent a threat to the children, and had allowed him unsupervised contact with the children in breach of court orders. This had led to the removal of all three children from the mother's care; each of the two older children had been placed with his or her own father, each of whom wished to care for their own child and to maintain contact between the two half-siblings. A parenting assessment of the mother was carried out, but the mother attended only three of the seven appointments, and the assessment concluded that she had 'demonstrated a minimal level of engagement'. The local authority supported residence orders to the two fathers, seeking supervision orders in respect of both children. In respect of the youngest child the authority sought a care order and a placement order, proposing that she be placed for adoption as soon as possible. Shortly before the hearing, the mother withdrew her opposition to the making of residence orders in respect of the two older children, although she did tell the children that she would seek to get them back in a couple of years. However, the mother continued to oppose the youngest child's placement for adoption, and sought a further parenting assessment, hoping to persuade the court that she could care for the youngest child herself. The mother now claimed to have separated from the father, but the local authority believed that she was still deeply emotionally and physically involved with him and his family. There was evidence that she was still in frequent contact with the father's family, and that the mother and father had been in regular telephone contact; there was also evidence that the mother had been in unauthorised phone contact with the eldest child.

Held – making the care order in relation to the 15-month-old child, ordering the guardian to report on the welfare issues associated with the placement order, and making residence and supervision orders in relation to the two older children –

(1) It was in the best interests of each of the older children to make a long-term home with his/her father. It was very important that the long-term nature of the placements was explained to the children; the children's new homes were not to be disrupted without very good cause (see para [9]).

(2) Although there was no criticism of the mother's physical care, she could not be relied upon to protect the children. The mother was still emotionally enmeshed with the father of the youngest child and there was a risk that she would reunite with him; she had failed to co-operate with the local authority and had deceived the authority and the court. On occasions she put her own emotional needs above those of the children.

(3) For these reasons a further parenting assessment was not justified in the circumstances. Even if the mother could adjust her parenting style, the necessary changes would not occur within a short period of time; the window of time for a successful placement for the youngest child was limited and narrowing, and the child could not wait. The care plan for adoption was approved, but the mother was entitled to more time before the placement order was made (see paras [68], [69], [72], [73], [75]–[78], [81]).

(4) Ending the youngest child's contact with her half-siblings was a difficult problem but the adoption placement should not be put in jeopardy by ongoing direct contact with the older children. The youngest child's security and stability in the new home must be the prime motivator. The older children would need considerable support and help in coming to terms with loss of contact with the youngest child. Contact between the mother and all three children should be reduced (see paras [83]–[85], [87]).

Statutory provisions considered

Children Act 1989, s 91(14)

Alistair Perkins for the local authority

Joanne Delahunty QC and *Dafydd Griffiths* for the first respondent

Siobhan Kelly for the second respondent

Amanda Meusz for the third respondent

Sarah Pope for fourth respondent

Marcia Hyde for the guardian

Cur adv vult

HOGG J:

[1] The application before me relates to three children. They have the same mother but different fathers.

[2] D was born on 20 January 1996. Her father is Mr F and he is seeking a residence order in respect of her.

[3] D was born on 21 May 1999 and his father is Mr K. He also is seeking a residence order.

[4] L was born on 1 March 2007. Her father is Mr J who is supporting the mother's application for a further assessment of herself, and her parenting skills as a single carer. He is also seeking contact in respect of L.

[5] The local authority supports residence orders to Mr F and Mr K of D and D respectively, and seeks supervision orders in respect of both children. The local authority seeks a care order and a placement order in respect of L. It is proposed that she should be placed for adoption as soon as possible. The mother's application for a further assessment is opposed.

[6] The guardian supports the making of the residence and supervision orders in respect of D and D. She also supports the making of the care order and placement order in respect of L.

[7] Until very recently the mother was seeking the return of D and D to her care. However, in the days before the commencement of this hearing she took a brave and courageous decision, which is greatly to her credit, that she will not oppose the making of the orders sought in respect of the two children. She is concerned about the level of her contact to the children, and that has been an issue before me, and one which I shall have to decide.

[8] I say at once that at the end of this judgment I shall be making the residence orders and supervision orders. I have no doubt that it is in the best interest of both children that I do so. Both Mr F and Mr K have expressed their gratitude to the mother for her decision. There are remaining issues to be resolved between the fathers and the mother, but those issues and concerns should not detract from the mother's courage in reaching what must have been a very difficult emotional decision. I know that she loves her children very much, wishes the best for them, and her very decision causes her distress.

[9] In making residence orders in respect of D and D I am accepting the conclusions reached by the local authority and the guardian that it is in the best interests for each child to make her/his home with her/his father. That will be long-term homes and not ones which should be disrupted without very good cause. It will be very important after this hearing for the long-term nature of the placements to be impressed upon the children. They are not intended to be short term, or something which can be altered in the near future or in a couple of years or at the mother's whim. It is a serious commitment by their respective fathers, it is long term, and that I have specifically sanctioned the long-term nature of the orders.

[10] I have spelt this out in terms because when the mother told the children of her decision she also told D that she would seek to change the situation in a couple of years or near future. Any false impression given to D, or even D, in this respect must be altered, and the true nature explained.

[11] In due course I will deal with the issues of the mother's contact to D and D.

[12] The mother in part came to her decision not to oppose the placements with their respective fathers, because since 21 December 2007 the children have been residing with their fathers, and have begun to settle in their new homes. She also in part came to that decision so that she could concentrate all her efforts in respect of obtaining a further assessment of herself and her parenting capacity as a single carer for L. It is very much her wish to recover the care of L who since 21 December 2007 has been cared for by a foster carer, whilst having very regular and generous contact on almost a daily basis. She earnestly opposes the local authority's care plan and application for a placement order.

[13] The local authority bases its case against the mother resuming care of any of her children, L in particular, because it is the belief of the social workers that the mother has not fully and for ever separated from her husband, and L's father, whom I shall refer to as the father, and that any apparent separation is a fiction (my word) and once the proceedings are concluded and L recovered, the parents will continue their relationship. The guardian also shares this belief.

[14] It is also said that the mother's parenting style is such that she cannot emotionally parent L adequately or sufficiently once L ceases to be a toddler; that I need only look at the history of concerns raised by the emotional difficulties encountered in the past by D and D. It is said that such are the concerns L would be at risk of significant emotional harm if she were to be placed permanently with her mother. In any event, work with the mother is necessary to improve her parenting style with D and D; that this will take some time. The mother seeks an assessment and assistance in her emotional parenting style of L to enable her to care for L long term. The local authority

and guardian are of the opinion that even if the mother were to be able to change and improve her parenting, and of that there is doubt, such changes would not be within L's own timescale. She is now 15 months old and the window of opportunity for a good transition into an adoptive placement is limited and reducing. L cannot wait to see if her mother can change sufficiently and thus time is not on the mother's side.

[15] I heard from Dr T and Dr E concerning any possible assessment and type of help the mother could be offered to improve her parenting style. They were not in total agreement in terms of the assistance required, but they both firmly stated that such assessment and work should not be embarked upon unless the court was satisfied that there had been a total and forever separation by the mother from L's father, and she understood and accepted the reasons and the necessity for that separation. The local authority and the guardian are also of that opinion.

[16] On 21 December 2007 Moylan J, after a lengthy contested hearing, held that L's father had seriously sexually assaulted his own son when he was about 6, and two nephews when they were teenagers. The judge described him as 'a very sexually dysfunctional man. It means there exists a real likelihood of significant harm to all three children, whether boys or girls, regardless of age, unless or until there is other evidence in the way of psychological or other reports that demonstrates the contrary or demonstrates the level of risk; he must be taken as a man who presents a risk of significant harm to children'.

[17] Dr T who assessed the father and reported said of him, 'he isn't co-operating in a full open assessment process. He appears a periodic opportunist and even reckless offender who may try not to offend over long periods but can give no confidence to himself or others as to whether any occasion in the future might not be an occasion where a serious offence could occur. Untreated, he remains a dangerous risk although there is a potential his risk could be reduced if he were to be open and available for treatment. There seems to be little real prospect of either just now'. 'The risk he poses to the mother's children is significant and serious.'

[18] The father maintains his innocence notwithstanding the judge's findings. He maintains that the allegations were and are lies, and there was some form of conspiracy against him. He confirmed this view to Dr T, the guardian and this court. He also confirmed that his mother and own extended family firmly believed in his innocence.

[19] The judge also made findings against the mother and her behaviour since the allegations against the father surfaced in December 2006:

'I have no doubt that the mother seeks to do her best for the children. I note the social workers comment that the mother's failure to engage and/or fully co-operate with the local authority was not in issue until December 2006. However, she has shown a complete refusal and transparent unwillingness even to consider that the father might be a risk to the children. This has led her not to co-operate with social services as much as she did previously, and has allowed her to act in a way which I can only describe as being extraordinarily irresponsible, and showing a marked inability to think through the consequences of her actions both for herself but more particularly for the children.

I am of course referring to her flagrant breaches of the orders made by Hogg J. She had given no thought to the consequences of acting in breach of these orders, in particular that it could well lead to the children being removed from her care. This appeared not even to have featured in her decision to permit contact. She also seemed unwilling or unable to see what effect this could have on the children. They knew they were not supposed to have unsupervised contact with the father, so they either had to lie about it or keep it secret. The contact supervisor who wrote that the greeting felt rehearsed was being insightful. D's greeting "Haven't seen you for ages" was, as I have said pure theatre. I would hope that the mother will not be able to see how damaging this is for the young and vulnerable children.

I am not in a position properly and fully to judge but I agree with concerns that have been expressed as to the influence which the father appears to exercise over the mother.

I am also satisfied that the mother is not able properly to protect the children from the risks posed by the father because of her absolute refusal to believe that these allegations could be true and currently because of her clear refusal to take any steps to protect her children, even on the basis that the allegations might be true. I am accordingly satisfied based on my findings that each of the children is likely to suffer significant harm ... I am also satisfied that D and D have suffered significant emotional harm as a result of their being involved in contact in breach of Hogg J's order.'

[20] In his second judgment of 21 December Moylan J said the following:

'I was particularly struck by the mother's and the father's transparent almost indifference to the consequence of breaching the order of Hogg J, both for themselves and more importantly for the children. It was apparent from their evidence that they had not discussed, given no thought at all to the likely consequence of what they were doing, and they had given no thought at all to the consequences for the children of being involved in contact which the children knew was in breach of an order. So, this reveals in both a deep lack of insight into the children's emotional needs, and a complete inability to meet those needs.

So in respect of D and D they are clearly additionally suffering emotional harm, and significant emotional harm as a result of being swept up in the web of deceit created by the mother and the father by regularly effecting contact in breach of the court order. Being forced to hide the truth from the professionals and the fathers cannot other than be a cause of significant harm.

The mother's recent behaviour by being in flagrant breach of Hogg J's order, despite being given the starkest warning of what the consequences would be to her of that breach (and, I add, I chose simple language in explaining the consequences to avoid any doubt or misunderstanding) shows that she cannot be relied upon to meet the interests of the children, put their interests above her needs, and so properly to protect the children from the risks of harm. Neither the

father not the mother since December 2006 have shown themselves receptive to advice from others or shown themselves capable of complying with Court orders.'

[21] As a result of these findings Moylan J ordered the removal of the three children from the mother's care, and made orders that D and D should reside with their respective fathers, and L to be placed into foster care until the matter could be considered by this court.

[22] I add only that it is most unfortunate that the vagaries of the listing system mean that I, rather than Moylan J, should have heard the matter. It is generally more appropriate for the judge who heard the 'fact-finding' hearing should also hear the 'disposal' hearing.

[23] Before leaving Moylan's judgment I should just refer to his other findings against the father's family and against the mother, as they may impact upon the outcome of this hearing and are important features in this case.

[24] As against the father's family he held:

'it is clear that the family were not being honest about the extent of contact between them and PW (a nephew abused by the father). They want to create a false picture ... (to protect the father).

The mother struck me as both vulnerable and naïve. The case against her is put in two parts. The first is based on her alleged parenting shortfalls which it is said mean that she is unable to provide the children with good enough care.'

[25] He then listed a number of matters which were not proved or established. It was agreed that the mother had suffered depression and anxiety in 2004 and had received extensive support and practical assistance from a friend at this time in parenting D and D: that later she felt suicidal, that in 2005 her school referred D to the local authority as she was 'self harming', that Dr V who was treating D for his emotional difficulties made a referral to social services with concerns about 'the mother's ability to meet the children's emotional needs'.

[26] The judge having heard the evidence found that:

'There is no doubt that on occasions the mother has been unable to prioritise the children's needs above her own emotional needs.'

[27] Following the conclusion of the hearing on 21 December 2007 the children were removed immediately from the mother's care. It must have been very distressing for the children, and the mother. Unfortunately the mother has a difficult relationship with her own family, and despite the grave findings against the father chose to spend Christmas with him and his family who no doubt, believing in the father's innocence would have closed ranks around him, condemning the judge for having come to a wrong decision. No doubt the judgment would have been hotly discussed in the mother's presence, and thus strengthening her belief in his innocence and support of her husband.

[28] Both the mother and the father tell me they discussed the possibility of separation some time in January 2008, but remained together as a couple until

7 February. On that day the father's leave to appeal the findings of Moylan J was refused. They say that they retired to their favourite public house to consider their future, and decided to separate. They both tell me that this was the date upon which their relationship ended.

[29] In my view, and as pointed out, a busy public house where they are both well known by the customers who at any moment could come up to them to engage them in conversation is a strange place to sit down and discuss the future of your marriage, and well-being of children.

[30] I have to say I do not accept their account of what occurred that evening.

[31] Thereafter on the 28 February 2008 at the Family Resource Centre it is reported by staff that the mother arrived already knowing the father had missed his contact with L, and informed staff that both she and her husband were very angry. As he had missed his contact the mother offered to give up some of her time with L so he could see her. One might think a generous, kind act of one parent to another, of one committed spouse to another, but not that of a mother who had recently separated from her husband, who had such serious findings against him, and as a consequence had lost care of her children. It was not the offer of a mother who knew the findings and accepted them as true. It was the offer of someone who was still emotionally involved with the father, and who still believed in his innocence.

[32] In addition, on that day the supervisor recorded the mother as saying of the father 'I don't talk to him very much. We had to cut ties till I get the kids back'. The mother was asked about this and she denied saying 'till I get the kids back' and asserted that the supervisor 'got it wrong'. She agreed that she had said 'I had to cut ties'. I have to say that I was far from convinced by the mother's denial and find that she was lying in this respect, and that she did say what the supervisor had recorded.

[33] Again, on 28 February there was a meeting between the mother, social services and the guardian. She was asked how she came to the decision to separate but was unable to answer. She said she was still coming to terms with believing the findings and it was a great shock to her. Sometimes she was able to believe, sometimes not, that she still loved the father, and it would take some time to emotionally separate, but she accepted the findings and agreed to tell the children this. She also is reported as saying she had cut ties with the father and his extended family as a result of her decision to separate. She was then planning to move home.

[34] It seems also that during the week of 25 to 28 February the mother had stayed a few nights with her own parents, but they had seen very little of her.

[35] On 28 February the mother, with her own mother, had gone shopping. The mother agrees that she bought a 'Mother's Day' card and present for the father's own mother, and was looking for a specific wallet for the father. The mother told me it was as a late Christmas present for him, but had she found what she wanted she would have posted it to him. When challenged about this she said to me that she now realises it was not a sensible thing to do, but 'at the time it seemed a good idea'.

[36] It is an indication that at the time she was still emotionally involved with the father and his mother.

[37] On 1 March 2008 the mother and the father met to swap over cars. The father's car had recently been written off; he could only drive an automatic car

and offered to buy the mother a manual car, which was cheaper, in exchange for the automatic car she was driving. Again this is an incident which reflects the good terms on which they then were.

[38] On 3 March 2008 in accordance with her previous agreement, and with support of the social worker she told D and D that she had decided to separate from the father because she accepted the findings, he posed a risk to children, that she had moved in with her parents (she had already moved out) and was planning to move near her family. I am told, and accept, that the mother conducted herself well throughout this meeting.

[39] As a result of the mother's assurance at court on 15 February 2008 it was agreed that Mrs G the allocated social worker would carry out a parenting assessment of the mother. The mother was offered seven appointments. She attended only three. Two she missed because she said she was unwell, but was able to attend a school meeting on the same day as one. One she missed without warning or explanation, and one she missed because she had a problem with her car. Mrs G took an understandable view that the mother 'had demonstrated a minimal level of engagement. This is not what I would have expected from a parent who genuinely accepted the court's findings, and was anxious to persuade the local authority of her willingness to make the necessary changes for her children to be restored to her.'

[40] During the assessment the mother was asked if she was angry with the father for causing her children to be removed. She replied 'that she was angry with him, but not as angry as she is with Mr K for treating her and the children so badly in the past, that she had internalised her anger towards the father'. She agreed in evidence that she made those remarks.

[41] She was asked about instituting divorce proceedings, and she replied that her solicitor was dealing with it. To date she has not issued any petition on the basis that she is concentrating her energies on this hearing. The father indicates he is going to issue his petition on the grounds that the mother now believes the truth in the allegations and findings made by Moylan J.

[42] She was also noted not to be wearing her wedding ring on 14 April saying she had removed it some time before; but the social workers saw a clear imprint of a ring on her finger. In court throughout the hearing she wore rings on both 'ring fingers'.

[43] Moreover, she also told the guardian that she did not intend to change her name back to her maiden name and would continue to use her married name.

[44] At the meeting the mother was asked about D recounting to a contact support worker that on 20 December 2007 the mother had taken the children to a cemetery to visit the father's sister's grave and told them the sister had committed suicide because the local authority had removed her children. It was reported at the time that D was fearful for her mother's well-being. The mother denied D's story, that D had made it up or had eavesdropped on the father's family conversations, and that she (the mother) would never do anything like that because it would be emotionally abusive.

[45] The mother repeated her denial to me. Having heard her accounts and explanations for D's story I am satisfied that the mother's denial is a lie, and I find that she did take the children to the cemetery and commented as recorded; that doing so she put her needs first, and above the children's and in doing so was emotionally abusive and caused D at least additional distress.

[46] The local authority was not satisfied that the parents had separated, and thus on the weekend of 11–13 April 2008 instructed a private investigator to carry out a surveillance of the mother.

[47] On the evening of 11 April the surveillance team lost sight of her and could not find her. She did not return home until sometime after 12.30 am on 12 April. Later on 12 April she was seen visiting the father's brother's home on at least two occasions, and on Sunday she is recorded as visiting the father's own mother's home where she spent the whole of the afternoon and evening and was still present when the investigator left at midnight. The mother gave an account that she did visit the brother's home on Saturday as his daughter was celebrating her 16th birthday, and she was invited to the party and asked to help prepare for it. She said the father was not there, that she did not see him at all over that weekend.

[48] From the party late at night she says she took the father's mother back home because she had been taken ill. She stayed with his mother to see she was alright and stayed with her until late Sunday evening.

[49] It is clear to me that even if she did not see the father that weekend, and it is speculated by the local authority that he was at the party and with the mother overnight which both parents deny, she was still deeply emotionally and physically involved with his family, given her own account and the investigator's report.

[50] Moreover the mother agreed in evidence that the father's family all believe in his innocence, and that being the case, none of them would have welcomed her into their homes had they thought she then believed the findings were correct and that the father had in fact abused his son and two nephews.

[51] At the pre-trial review on 29 April 2008 I made an order by consent that the mother's and the father's mobile records since December 2007 be disclosed. The outcome has been the disclosure of ongoing, frequent telephone calls and text messages between the parents up until 25 April when it seems to have ceased, and considerable unauthorised and therefore unsupervised telephone contact between mother and D, and attempts by D on Easter Sunday (23 March) to contact the father. As a result her own father has had to confiscate her mobile.

[52] The mother and father both told me that the calls occurred in the early days to work out the arrangements for the swap of the cars on 1 March, and other tidying up of loose ends of returning possessions. Thereafter they occurred usually when the father contacted her after he had been drinking, and that she replied in anger and abuse.

[53] Looking at the schedule of calls that cannot be the case and I do not accept the parents account for the reasons for the calls and messages. There is no record of the calls and texts continuing immediately prior to the order for disclosure.

[54] It is also very concerning why D was trying to contact the father on Easter Day. He says that she wanted to wish him a Happy Easter. However, he told me that he knew it was D telephoning him, even though he did not answer the calls because he had put her number into his mobile. As she had been given her mobile at Christmas after she left the mother's care I am left wondering how he knew her number to enter it into his mobile. Clearly at

some point and from someone he received that information and recorded it, even though he and the mother were fully aware of the injunctions against him.

[55] Turning to the mother's telephone contact with D, again it is very concerning. The mother and D knew she was only allowed supervised direct face-to-face contact, yet there has been continued telephone contact between mother and daughter into May. Thus, again, whatever the mother's excuse or misguided wish to help her daughter she involved her daughter in further deceit and lies. Mr F was unaware of the contact; the social workers while suspicious were not apprised of it. The mother maintained the secrecy as did D, and thus more emotional harm can be laid at the mother's door, notwithstanding the very clear findings and reasoning of Moylan J. In my view, another example of the mother putting her needs first, and not considering the consequences or impact on her daughter.

[56] The mother gave evidence before me over some time. I had previously read all her statements to the court prepared for the hearing and her comments to the social worker, Dr T and Dr E. When reading and listening to her evidence I took into account Dr T's evidence about the mother's cognitive functioning and limitations in that respect. I was anxious to ensure that she understood the questions put to her, and asked counsel not to use complex words or language. Where she was confused the question was put a different way.

[57] She told me that at first she could not accept the findings of Moylan J: she thought he was wrong. She believed in the father's innocence, his family believed in his innocence, he proclaimed it, and one of his 'victims' had also told her his allegations were untrue.

[58] She was shocked and distressed when the children were removed, and that I readily accept.

[59] She realised that being in breach of my order they (she and the father) had been stupid and 'they were paying for it'. When challenged that his mother in January had told the social workers that the breaches were more frequent and included visiting her (his mother's) home and staying overnight she denied it, and said the breaches only took place in the public house. The father also denied what his own mother had said. I do not accept their joint denial. The grandmother had no reason to elaborate the unauthorised contact; it would not have been in her, or the father or mother's interest to do so. In my view, the parents lied about this. It is indicative of their approach to minimise their wrongdoing, and only 'own up' when there is firm evidence against them. Even now when the mother is keen to reassure the court that she can be relied upon to co-operate with the local authority and adhere to orders and advice, she cannot bring herself to be open about the past.

[60] She told me she had separated from the father on 7 February and it was a for ever separation, that she would not reunite with him after these proceedings. She told me she had not seen the father's family since the weekend of 11–13 April. She told me it had been difficult to separate from the father, it had taken time. She knew she had to separate if she were to recover the care of the children but had to do it her own way. She said she now accepted the truth of the findings, and was angry with the father for causing the loss of the children.

[61] She never once reflected on any horror or revulsion at the thought of what the father had done to his victims, how they must have felt and suffered. She never once displayed the depth of feeling and revulsion of being duped by the father. She never once spoke of the dangers she had put her children into, even though at the time she did not believe it. She could not reflect upon her behaviour and breaching of the order as having been dangerous to the children. Her evidence lacked empathy for the victims and for her own children, it lacked conviction. I was not left with the impression that she accepted the truth of the findings, and fully understood what the father had done. Her comments about the breach were about her. 'We were stupid and we are paying for it.' It was not about the children and the risks she had imposed upon them.

[62] In my view, she had come to realise somewhat late in the day that, as Moylan J had made the findings, she would not recover the children unless she was seen to separate from the father. She told me she had not wanted to separate from him, and I accept that. She left me feeling that she did not understand the reasons and the dangers he posed to her children. She had needed him, had been deeply emotionally involved with him and believed in him.

[63] The guardian accepted in her evidence that the mother may have physically separated from the father at the end of April. I do not dissent from that. I cannot say I am certain about that, but there is no evidence that they are in contact or have been in contact. What I am certain about is that she did not separate from him as both say on 7 February. She continued to be reliant upon him for some time thereafter, and continued to believe in his innocence until certainly after the 13 April. This is notwithstanding her protestations to the contrary in court, to the social workers, guardian and doctors.

[64] Where she stands now I am not certain. In February she wanted to continue her relationship with him. In April she was still involved with his family, and in contact with him and believed in his innocence.

[65] I am by no means certain that she is free from him now. Her evidence lacked conviction, it lacked the sense that she understood and accepted what the father had done, how she had been taken in, how she had endangered her children.

[66] In my view, she has not come to terms with the reality of the findings, the implications they carry for all involved. She can speak the words she knows I need to hear, but she does not 'feel' the situation.

[67] With this in mind I have to ask myself if she has separated from him physically, be it all very late in the day; and if so, is it a for ever separation? Is there enough in her understanding of the situation to prevent her from going back to the father if the opportunity arose? Moylan J said the father was manipulative and had influence over the mother. I agree with that assessment. The father gave evidence before me, he proclaimed his innocence, asserted it was a conspiracy by family members of his first wife. His evidence to me was unreliable, and I regard it with great caution.

[68] My conclusion about the mother now is that she is still emotionally enmeshed with the father. She is not free of him. Her professed anger was not apparent; and this is a mother who has anger management difficulties. She had little or no sense of the horror and harm he had caused his victims or the risks he posed to her children. Without that sense she cannot protect them. In

my view, there is a risk that after these proceedings she could reunite with the father. She is alone, apart from her own family, vulnerable and naïve and she still is emotionally involved with him.

[69] Such are the risks, and her known deception and lack of co-operation with the local authority, guardian and the breaches of my orders, and disobedience and involvement of D in unsupervised contact, that I find she cannot be relied upon to protect her children.

[70] Notwithstanding this conclusion, should I cause the local authority to embark upon a programme to see whether she can change sufficiently in order to parent L? Dr T and Dr E were clear that unless the court were clear that the mother had physically and emotionally forever separated from the father, that such a programme should not be started.

[71] Neither doctor was entirely confident that, even if I were clear that the mother would be able to change sufficiently. Dr E was more pessimistic, Dr T was more optimistic but cautious: she had potential to change.

[72] As it is, I am not clear she has made the complete separation. I have concluded otherwise, and she has continued to lie and deceive the social workers until very recently. She has shown that until very recently she cannot co-operate and be open with professionals.

[73] Moylan J made findings against the mother in that on occasions she put her emotional needs above those of the children. I agree with those findings. Dr T and Dr E both said that this was the case, and while she wanted to do her best for her children on occasions her emotional needs came into conflict with those of the children, and her needs won the balance. The mother is very needy, isolated and vulnerable. She herself needs to be loved and nurtured. She felt she received that from the father, and in doing so endangered the children.

[74] There has been criticism of her in that she undermined the older children and the placements with their fathers. She has tried to improve relationships with the fathers and desist from making inappropriate comments and remarks to the children. This is to her credit. But, even the week before this hearing she told the children of her decision not to oppose their placements with their fathers. And whilst she sought to adopt a pattern agreed upon at the meeting on 3 March when she told them she had separated from the father, she told them against the advice of the social worker, and in doing so told D that she would seek her return in 'a couple of years' or 'in the near future'. It never crossed her mind this would be unsettling, disruptive and confusing to her daughter.

[75] She has had much to contend with in the last 6 months. She has cognitive limitations, she has made adjustments but they are not sufficient for me to be optimistic that she could continue to make adjustments and changes in her parenting style which would enable her to care for and parent L throughout her childhood, and even if she could make some of those changes they would not occur within a short period of time, or a time within which L could wait.

[76] L needs to be placed in the home in which she will grow up as soon as possible. The window of time for L is limited and narrowing for a successful placement. L cannot wait. Plans for her final placement need to be drawn up imminently; they cannot be deferred or delayed to see if and when the mother can change sufficiently to parent her.

[77] For these reasons I must conclude that it would not be appropriate to countenance any form of parenting assessment of the mother to parent L, and I reject her application for such an assessment.

[78] I do this knowing how distressing it will be for the mother, and in the knowledge that she and L have a good attachment, they enjoy each other and the contact they share. I do it knowing that the mother has not been criticised in her physical care of L. It has always been acknowledged that the day-to-day care she has offered her has been good, but the criticism and concerns arise from her emotional care of her children, and more recently her ability to protect them.

[79] I do accept and urge upon the local authority the necessity to help the mother improve her emotional parenting of D and D. She needs help and positive intervention, perhaps feedback after each contact session would be very constructive.

[80] As for the future it is the local authority's care plan that L should be placed for adoption as soon as practical. They are seeking a placement order at the conclusion of this hearing. They were late in the filing of the application; the guardian has not provided a report on the welfare issues. The mother seeks time to reflect upon this judgment and the situation, and her counsel submits that if I approve the care plan the placement application could be heard by me on submissions only in the near future.

[81] As L is not to return to her mother, and no one within the parents' extended families has come forward to care for her there is no other option than to consider a long-term placement outside her family: given her age, adoption seems to be the appropriate way forward. On that basis I approve the care plan including the proposals for contact to her parents, and make a care order in respect of L. I will, however, allow the mother's request for time to consider this judgment and reflect upon the application for placement order, and order the guardian to report on the welfare issues.

[82] The position as to contact by D and D to L is more complex. The local authority proposes a gradual reduction of contact, and cessation of all family contact by the time she is placed. There will be 'goodbye' sessions. Mr F and Mr K urge on me and the local authority that the possibility of ongoing direct contact should be discussed with any potential adoptive family.

[83] Both D and D are fond of L and will miss her and worry about her. It is an anxiety to the fathers how the children will react and cope. I accept that this is a significant problem. The two children will need considerable support and help in coming to terms that L will leave the family, and most probably not have contact with them.

[84] Against that the local authority raises the issue of confidentiality of the adoptive placement in the long term. I recognise the difficulty. The issue should be discussed with prospective carers, but a placement should not be put in jeopardy by ongoing direct contact to the older children. L's security and stability in the new home must be the prime motivator.

[85] I do not disagree with the local authority's plan to reduce contact to L and her parents. At the moment it is almost daily to the mother, because it was necessary to maintain the mother/child relationship pending this hearing and my decision as to whether or not there was a possibility L could return home. Now that I have made the decision that she will not return the contact should be reduced as suggested.

[86] Turning to the mother's contact with D and D, it is proposed that it should be reduced to weekly and fortnightly until September when it should become monthly for between 3 and 6 months. Both the local authority and guardian agree there has to be a settling down period. The mother resists that and says the children have settled and would like weekly contact.

[87] I accept the children have in part settled in with their fathers. They are doing well. However, in their own minds, particularly in D's, until very recently there was a possibility that they will return to the mother's care. D wrote her 'diary' in May. It championed her mother's cause; that she wanted to live with her mother. That is not to happen. The children need to be told they are to stay with their fathers, an explanation needs to be given. 'Settling down' may not be the correct term, an adjustment period may be most apposite. The children need to adjust to the new and long-term situation. They will need some time, as the guardian said a 'breather' from the litigation and pressure of the proceedings. Frequent contact is a constant reminder of the changes and difficulties. I endorse the plan to reduce it to fortnightly.

[88] The fathers are concerned about the children's reaction and urge flexibility upon the local authority. They are not certain about the plan to reduce it to monthly contact. I can see the force in what they say, and what the guardian says about a breather of 3 to 6 months.

[89] Before I decide upon this last point I would prefer to know how the children react upon being told about the residence orders and the plan for L to be adopted.

[90] The matter will be coming back to me to consider the placement application in the very near future, when I would also like to be informed how D and D are, and their reaction, if any, is known, so that I may consider the 'monthly' option again.

[91] As it is I endorse the plan for the contact to the mother to be supervised and that there should be occasions when she sees D and D on a one-to-one basis. I think that proposal is constructive and helpful.

[92] I recognise that over the next year the local authority will be supervising the contact, and reviewing it, and considering whether it can be removed from the contact centre, and ultimately whether it can become unsupervised.

[93] However, I am not convinced that there should be a review of contact by the court in a year's time. If there is a need for any party to return to court at that time arrangements can be made, but to provide for one now will, in my view, be counter productive, and may even provide mixed messages to the children, or be used by the mother to confuse and disrupt.

[94] I have considered making a s 91(14) order against the mother to inhibit her from making applications for residence of the children. I have decided against that option. Again, it could be counter productive, and damaging. Instead I am going to direct that any application relating to D or D shall be made in the High Court, and be reserved to myself. Any such application shall be accompanied by Moylan J's judgment and my judgment, and a supporting statement from the applicants.

[95] I order a transcript of the judgment the cost of which to be divided equally between the parties, it being a proper and reasonable disbursement for the publicly funded parties.

Order accordingly.

Solicitors: *Suzannah Hargraves* on behalf of legal corporate governance
directorate London Borough of Barnet direct for the Local
Authority
Donald Galbraith and Co for the first respondent
Duncan Lewis & Co for the second respondent
Hodge Jones and Allen for the third respondent
Aitkin Associates for fourth respondent
Tyrer Roxburgh for the Guardian

PHILIPPA JOHNSON
Law Reporter