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Case No: PO20C01093

In the Family Court at Portsmouth

Dated: 21st December 2021

Before :

Her Honour Judge Black

Between :

Hampshire County Council

Applicant

- and -

A Mother

-and-

A Father

-and-

X

(by the Child's Guardian)

Respondents

Zosia Keniston for the **Applicant**

Nicholas Williamson for the **Respondent Mother**

David Merrigan for the **Second Respondent Father**

Laura Baines for the **Child's Guardian**

Hearing Date: 1 December 2021

Judgment

BACKGROUND

1. This judgment relates to the application made by the Local Authority on the 27th of October 2020 for a care order in respect of a little boy X born in March 2014 and now aged 7.
2. His parents were in a relationship between about 2008 and 2016.
3. The Mother has four elder children who are aged 18, 17 and twins of 14.
4. The Father was in a relationship with a woman known as Y from the time he was 13 years old, during which time he had three children; a daughter aged 18 and two boys aged 14 and 11. That relationship subsisted for some 14 years ending in 2011 and there was a period of about 3 years when he was in a relationship with both women.

5. The relationship with the Mother of X appears to have come to an end into 2016. It would be an understatement to describe that relationship both before and since as enmeshed and toxic.

6. Following their separation, the Father returned to his relationship with Y, that relationship came to an end in August 2021 following a violent incident (that I will detail later) but it appears that there still is some form of relationship between them, although the Father was unable to provide detail about what that would look like moving forward. Given the history of his relationship, it would in my judgment be wrong to assume that at some point they will not again gravitate back to each other.

7. The Father has six criminal convictions for assault or battery including in 2012 battery and common assault for holding a knife against his partner's throat and strangling her during an argument and in 2016 for battery against the Mother's then 8-year-old child. The Police records also show a number of other Police investigations for assault or threats to kill which resulted in no further action. To his credit (save for August this year) there has been no Police involvement or other reports of domestically violent events since 2016. He has undergone various courses and on the whole that perhaps with some maturity has assisted in him moderating his behaviour.

8. In the Summer of 2019, the Mother made an application for a variation of an existing child arrangements order. The CAFCASS safeguarding letter records that there were nine previous cases held by CAFCASS. Those nine previous cases were as a consequence of previous applications made by both parties to the Court for child arrangements orders and / or enforcement of orders previously made and / or variation of those orders previously made. There had been previous warnings to the parents that Section 91(14) orders might be made in the event of further applications being made to the Court but those threats do not seem to have detracted from both parents determination to resolve parenting issues between themselves through Court proceedings.

9. Those private law proceedings were concluded on the 3rd September 2020 but these care proceedings were then issued on the 27th October 2020, so this child has been therefore subject to Court proceedings, not only since the Summer of 2019, a period of almost 2 1/2 years but also on and off - but mainly on - since 2015 – almost all of his life.

10. During the 2019 proceedings, the Court appointed a rule 16.4 Guardian – Mrs Cherrett who has been in place since **3rd October 2019** and Social Services have been required to provide Section 37 reports to the Court. The child has had the privilege and benefit of the same Guardian and Social Worker throughout and they have worked tirelessly for his benefit in trying to find a long-term solution for X and his parents. They both need to be given credit for their dedication and going the extra mile in trying to achieve that for him.

11. The child was made subject to an interim care order as part of the Section 37 process on the 9 April 2020, and he has been subject to such interim care orders until the conclusion of those proceedings and throughout these care proceedings. He has throughout his life had his Mother as his primary carer and he has remained in her care through these proceedings.

12. The conclusion of the first Section 37 report by the Local Authority was that they did not agree that they should continue to share parental responsibility or that any public law orders were necessary. Their view was that it was not proportionate for a child placed at home in his Mother's care to be subject to statutory intervention on the basis of the parents' inability to communicate with each other.

13. It would appear that the Court did not agree with that conclusion as the Local Authority were required to file further Section 37 addendum reports. In each addendum report the same conclusion was reached until October 2020 when they then decided to issue proceedings.

14. For the purposes of this final hearing I have been provided with a bundle which consists of more than 1600 pages, within it is a selection of documents from previous proceedings. It is a shame that there has not been a full chronology provided, in particular, as this final hearing is my first substantive involvement in this case. It is, therefore, difficult to completely piece together events which have taken place.

15. It is clear, however, from the documents, that I have seen and read that there have been times where these parents have been able to communicate and to arrange contact and to fix plans for their son, but those periods have been short lived and the theme for this child's life since 2015 has been one of conflict and disagreement and an unwillingness to compromise or to see the other parent's view, as a consequence the welfare and needs of X have been lost. Both parents bear responsibility for this.

16. All of the children from both parents have at various times been subject to child protection planning and the Local Authority have been intermittently involved in all of these children's lives since 2011.

17. At the time of the issue of proceedings in 2019, there were already particular concerns over X's ability to learn at school and in his presentation generally and by November 2019 the school were considering seeking professional advice from an Educational Psychologist.

18. That referral reads: 'X presents with an extremely high level of anxiety at school and he needs constant attention and support from a familiar adult with whom he has a trusting relationship. This anxiety is so significant that it is making it impossible for X to learn at school at the moment, as he is not in an emotionally secure place to do so. He has continuous support of a safe trusted adult in the classroom, although he does not officially have 1:1 LSA support in reality this is the case, the situation has not improved at school, in

fact it appears to be coming more and more difficult for X at school as he is not in an emotionally safe place to learn' (C17).

19. He was at that time receiving support for his emotional well-being at home from MIND and at school from an outreach worker from SDAS (C14) and the Social Worker was clear that that work with MIND had been prevented by the Father not giving consent (C21).

20. Ms Cherrett's first report is dated 2nd December 2019 (I17). She records that she spoke to the then acting head teacher of X's school and was concerned that communication with the Father "can be difficult" (I21). It seems that X's behaviour became more problematic after October half-term. At Paragraph 28 Ms Cherrett comments (I24):-

"This is a complicated matter which is characterised by a long running conflict between the parties. The concerns held by the professional group surround the nature of the parties' relationship and controlling behaviour on the part of the Father especially in relation to X accessing services."

21. She continues at Paragraph 35 (I25):-

"X needs for his parents to find a way forward to work together, to remove conflict in their parenting relationship, whilst supporting him to access services as he requires."

Ms Cherrett recommended a global family psychological assessment, and this was approved by the Court in December 2019. Both parents to their credit agreed to the assessment and saw Dr Banks the instructed expert

22. His report is dated the 15th May 2020.

23. He was able to consider the Mother's medical records when he wrote his main report but not the Father's because the Father's medical records had not been sent to him directly and he was concerned about "these being potentially edited by the Father" (I304).

24. Dr Banks's assessment was that:-

(a) The Mother has longstanding psychological difficulties related to post-traumatic stress like symptoms as a result of her long-term early childhood sexual abuse, rejection by family, domestic violence and difficulties with trust and relationship building.

(b) Mother is likely to be less predictable to her children at times of stress where she will not be readily psychologically available and in tune with her needs.

(c) The Father is likely to experience difficulties in parenting at any point that he experiences a high degree of stress and unpredictability in his life routine and loses his sense of control of his circumstances (E71).

(d) Father is more likely to resort to a need for coercive control with the possibility of impulsive violence at time of acute stress and confusion.

(e) Father's anger frustration and confusion now appear to be directed towards those the Father perceives as powerful in influence and social hierarchy as a way of intimidating and showing aspects of attempts at coercive control when feeling threatened Father is likely to become particularly rigid and inflexible in his information processing and negotiation strategyRigidity is about the need for control and predictability / certainty (E58).

(f) The Father's attachment style would suggest a preoccupation with the perspective of himself and the justification of himself and a tendency to dismiss the perspective of others both as valued people and as sources of valid information (E57).

(g) He recommended that the Mother and Father would benefit from psychological therapy involving either a cognitive analytical therapy(CAT) approach for not less than 20 sessions or acceptance and commitment therapy(ACT) type approach of not less than 20 sessions he did not believe that CBT to be of sufficient use with Mother at this time.

(h) So far as X is concerned, he said; 'that he believed it was essential for X to have the opportunity for an educational healthcare plan assessment process to identify specific educational and psychological needs within an educational environment. Again, I stressed this is essential' (71); 'It is essential as without this X will not get the right support and intervention that he requires to help him reach his educational and social potential, any bickering between the parents as regards the process of referral appears huge to destruction in meeting X's specific needs and the EHCP process.

(i) In addition, as part of the EHCP process X should be referred to CAMHS for autistic assessment, what is certain is that X has clear autism characteristics: cooccurring with ADHD type characteristics and high levels of anxiety. There are also likely to be attachment related difficulties due to the parenting environment which X has experienced both with the difficulties with his siblings and the relationship with the Mother and the domestic violence between the parents (E71).

(j) In questions that were subsequently asked by the Father, Dr Banks stated that X is a particularly vulnerable troubled and needy child with formal long-term services needing to be required (E169).

25. Since those recommendations of therapy have been made, the Mother has engaged with counselling both online and in person and attended three sessions of CBT, she was then given advice not to progress with sessions at this time but she has committed that she will continue to seek therapy following the conclusions of these proceedings.

26. So far as the Father is concerned, he did not take any steps to obtain the therapy recommended by Dr Banks, his reason for this is that he was, during the private law proceedings a litigant in person, but if correct it does not explain why he has done nothing about this since he has been represented for over a year. More recently, he says he has approached Talking Change and is now on a waiting list, but it is unclear what it is he is on a waiting list for and at no point did I have the sense, that the Father considered that any such services were necessary for him, however, he has also committed to seeking therapy following the conclusion of these proceedings, although I have less confidence of the Father's willingness to undertake this or to even consider that such intervention is necessary or will be of assistance to him.

27. Notwithstanding all those recommendations it sadly remained the situation, that the provision of professional support at school and via CAMHS remained problematic.

28. On the 4th of February 2020 CAMHS wrote to the Mother to say that that they have been notified to withdraw the offer of an initial assessment appointment for X and for him to be removed from their waiting list. They said 'we understand that this decision has been made in conjunction with X's Father and you. We understand that the reason for this request is that Father does not give his consent to any intervention for XX has been discharged'. (J15)

29. The Father complains that as with many professionals despite the fact he had parental responsibility he had not been copied into this letter and the letter did not reflect his position. I do not accept that. His opposition to services was clear.

30. On the 18th March 2020 the head teacher of X's school wrote to the Mother's Solicitors 'that the school believes that the advice and support of professionals such as the Educational Psychologist, primary behaviour support service and outreach from special school advisors could be invaluable to help X overcome his difficulties. Equally the school would also support a CAMHS referral. Consent has been sought from both parents to seek this advice and support on behalf of X but has been unable to secure consent from X's Father. Furthermore, the school is able to provide ELSA support and counselling as well as other forms of therapy such as garden and equine therapy for specific children, but, once again, consent would be required from both parents and X's Father has made it clear that he does not consent to any level of support for X which would be regarded as SEND provision.' There was a meeting planned for the 16th of March at the school but on the day of the meeting the Father said he would not attend and that he would not provide consent for any formal meetings to take place regarding his child without his attendance (C35).

31. It is unsurprising given the continued difficulties and the disregard of Dr Banks's recommendations both by and in respect of the parents but more particularly of X that the Court made a Section 37 direction and an interim care order.

32. Despite the Local Authority's reluctance to share parental responsibility or issue proceedings their intervention did seem to assist in a calming of the situation to the point that they and the Guardian agreed that a 12 month Family Assistance Order would be a proportionate outcome and such an order was made on the 3rd September 2020. The contact arrangements were again in place and appeared to be working with X being able to spend the Summer holidays on an alternating week basis and with the Father having alternate weekend contact during term time.

33. Over the years there had been many disputes about the detail of the living/contact arrangements which had resulted in the numerous applications to the Court. Various different options had been tried such as collection/return from home and then from school to reduce the risks of conflict and acrimony. All with little sustained success. The theme running through all the Section 37 and Guardians' reports is the inability for the parents to communicate and to consider the impact that this acrimony was having on X. An example of this is the fact that in Easter 2020 it took 70 emails of squabbling to resolve the Easter contact arrangements.

34. It is clear throughout that it has been the Father's wish for him to be treated as an equal parent with the Mother. He has parental responsibility for X and has wished for all professionals working with or for X to respect that, and it has been his clear expectation that all decisions made in respect of X should be equal decisions with the Mother and that his consent is required for such decisions to be made before they can be acted upon.

35. Both the Guardian and Social Worker in various documents have expressed their sympathy for the Father because they can see that there have been occasions where he has not been treated with equality, has not been copied into documents, has not been invited to meetings and decisions have been made or purported to be made without his agreement.

36. It is clear from reading the documents that the Father is perceived by many of the professionals as a troublemaker and very difficult man to deal with.

37. The Father is a man who is a stickler for process. He is well versed in the law when it comes in particular to the statutory duties of local authorities and schools and quite rightly, he has expected all of those organisations to comply with the legislation and the rules and regulations.

38. It is clear that on occasions (but it is not necessary for the purposes of this judgment to go into the specifics) that there has not been strict compliance with such legislation regulations and rules.

39. The difficulty, however, is that the Father has become obsessed with the process and even when professionals have provided him with information or invited him to meetings, he spent more time trying to pursue his own agenda and to argue about the process rather than focusing on the needs or requirements of his child. I have been provided with many many examples of this and I will deal with only a few by way of illustration of the difficulties there have been between what I consider to be the Father's controlling behaviour and the attempts by professionals to engage with the Father during the course of this judgment.

40. All who have become involved in this case have complained and become overwhelmed by the level of communications, the expectation for instant responses, the demands for information and multiple Subject Access Requests. There have been numerous complaints made of the professionals involved through their relevant organisation's complaints procedure.

THESE PROCEEDINGS

41. The respite from Court proceedings in the summer of 2020 was short lived and the parents, in particular, the Father's behaviour reverted to that observed during the private law proceedings to the point where the Local Authority decided to issue public law care proceedings on the 27th October 2020.

42. For the purposes of this final hearing there is a threshold criteria document setting out the facts that the Local Authority rely on to prove that the Section 31 Children Act 1989 criteria is made out. The basis upon which they say threshold criteria is made out is that the child had suffered significant emotional harm in the care of his parents and was likely to continue to suffer such harm had protective measures not been put in place, particularly, the child was unable to control his emotions and behaviour which was particularly evident at school and he is likely to be aware of the tensions between his parents of their attitudes and behaviour and their heightened emotions and the child's educational development was affected by his behaviour.

43. That threshold criteria and the facts are accepted by the Mother. On the 6th April 2021 the Father conceded and it is recorded in an order that was made on that day that he acknowledges that the child has suffered significant emotional harm because of the conflict between his parents. At this final hearing he resiles from that position he says that he did not and it was never agreed by him and that he has made a complaint about that and asked for it to be changed under the slip rule. There was no concession made at this final hearing that the threshold criteria is made out so far the Father is concerned.

THRESHOLD

44. It would seem sensible to deal with the threshold criteria at this juncture as the Local Authority rely on a number of events which occurred from about the time that the child returned to school at the start of the Autumn term.

45. The facts relied upon by the Local Authority are as follows:-

1. The Local Authority relies on the following facts in order to demonstrate the standard of care given to X by his parents which has culminated in the behaviour seen in the period before the Local Authority issued proceedings:-

(a) The family has been open to Children's Services on an off since 2011 and thus throughout X's life. Despite the support given to the family, the volatility between the parents has continued with no significant change.

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46. It is clear that this has been the case.

(b) The parents have an abusive relationship which remains volatile and unpredictable. They are unable to communicate about X consistently in a manner which promotes his stability.

(c) The Local Authority asserts that the Father's behaviour towards the Mother is controlling and coercive.

47. It would seem sensible to take these two paragraphs together. The Father accepts that the relationship is unpredictable, but he does not accept that his behaviour is either controlling or coercive or presumably that they have an abusive relationship which remains volatile. It is particularly surprising that the Father does not accept that the parents are unable to communicate about their child consistently because it is quite obvious from the papers and from the numerous Court hearings that that is the case.

48. Practice direction 12 J Family Procedure Rules 2010 defines coercive behaviour as meaning 'an act or a pattern of acts of assault threats humiliation and intimidation or other abuse that is used to harm punish or frighten the victim' and defines 'controlling behaviour means an act or pattern of acts designed to make a person subordinate and or dependent by isolating them from sources of support exploiting their resources and capacities for

personal gain depriving them of the means needed for independence resistance and escape and regulating their everyday behaviour’.

49. The Father says all he wishes to be is an equal parent with the Mother and disputes that his desire to become so equates to controlling or coercive behaviour. I disagree.

50. There are many examples in the bundle showing the Father exerting or attempting to exert control over the Mother, refusing to let go, refusing to consider any other opinion or option other than his own, and attempting to wear the Mother down by his overbearing overdemanding constant demanding behaviour.

51. I have already referred to the fact that it took 70 emails to resolve Easter contact. That is an example of his controlling and coercive behaviour.

52. His conduct on dealing with the school is another such example. It has been relentless. It has undermined the Mother in her dealings with the school and her attempts to work with them in ensuring that X is supported at home and at school. On the 23rd October the headteacher sent the following email

‘I am emailing you to inform you that X left school site this afternoon. He walked away from his table and out through a door. He left via the back entrance to our school site, by climbing over a gate. X was escorted back to school with several members of staff present. Mum collected X and decided to take him home. This was not an exclusion.’

The response from the father reads

‘It took you until 4.08 pm to notify me that my child had once more managed to leave your premises and make their way into the public? The method you opt to communicate that information is an insultingly curt email via an address that you have been informed plenty of times is not actively monitored, with no regard to the arrangements and agreements reached during the CLA meeting earlier this year?’

How could Mum collect unless she was notified? In effect what you are saying is Mum was notified, but you consciously decided not to notify Dad? Would you have notified me if X had been run over, or had gone missing as he did earlier this year when you also failed to call me?

You allowed Mum to remove X from school without notification to me?

Have you notified Children's Services of this incident? If so, when?

I need the statements of staff involved, CCTV footage of the incident, the risk assessment that should have been undertaken following, as well as details of the investigation that should have taken place. This should include a detailed timeline of events, details such as whether X ran while in public, ventured near roads, etc, as well as information relating to any conversations held with X.

I am not surprised to hear that X has attempted to leave following your abhorrent treatment of him over these last 2 weeks. Your direct involvement with X is having an adverse effect on his well-being, which he freely shares with me.'

53. It is disappointing from reading that email that there is no concern expressed about how his son is or whether he was harmed in the incident. This is an example of the sort of aggressive demanding emails that the school and other professionals have had to deal with. It is also an example of his excessive demands for information and that whatever information is provided to him is not good enough and results in further demands. It is not reasonable behaviour. It is controlling behaviour.

54. The school have also had difficulties over X going on school trips and other activities, the Father demanded a copy of the risk assessment that had been undertaken before he would consent to his son going to Paultons Park and as he did not agree with the assessment and he had told the school his consent was required X was not able to go on the trip. There are other events that he has missed out on as a result of the Father not giving consent.

55. Another example is in relation to the collection of his child on the 18th September 2020 I have seen the email exchange. It starts with the Father saying 'I need X's black Adidas t-shirt', the Mother responds 'I don't have a black Adidas t-shirt', the Father responded 'yes you do because X wore it to yours weeks ago', the Mother's response 'I do not have a black t-shirt please go and enjoy your weekend with X', (this email exchange was taking place with the Father and X in the Father's car at the end of the Mother's street), the Father responded 'I cannot enjoy my weekend with X as I require you to return his black t-shirt', the Mother responded 'I would appreciate it if you left the enter the road now so I need to go out and I don't want them being involved in any of this X is stuck there now for almost 20 minutes', the Father responds 'I would appreciate it if you would return X's black Adidas t-shirt I am talking to X about his behaviour you do as you wish' in being questioned about this the Father could not see anything wrong with this exchange or the impact this might have on either the Mother or the child.

56. Dr Banks in his unchallenged report deals with the Father's behaviour and I accept his opinions.

57. There are emails that the Father has sent to the Mother which are clearly patronising of the Mother.

58. I am satisfied that these paragraphs are made out. The Father's poor behaviour could be extended to include the school and school services. His behaviour has gone way beyond what could be considered acceptable, or a proportionate response to him exercising his parental responsibility or ensuring that his parental responsibility is respected. His behaviour throughout has been about pursuing his agenda, his control of the situation and a wearing down of anyone until they agree with him If they do not then they are subjected to rudeness,

aggression and complaints. He has been consumed by process and has totally lost sight of his child's welfare.

(d) The Father has been convicted of a number of violent offences (F94 onwards). On 10th October 2016 the Father was convicted of battery; the victim was the Mother's older son, (C47 private law proceedings bundle and F98).

59. This is a statement of fact.

(e) X was excluded from school on 18th September 2020 because of his behaviour. This is unusual for a child in Year 2. (C100)

60. From almost the start of the new school term the child's behaviour had become increasingly concerning to the school. On the 18th of September 2020 the child left the classroom and climbed over a fence onto the junior field, he refused to come back into the building then climbed back over the fence and went outside the school boundaries into the street, the school were able to retrieve him and calm him down but he then again escaped from the school and left the school site for a second occasion. As a consequence of this, he was excluded from school and as he was due to be in the Father's care that night the Father was contacted to inform him of the exclusion and requesting him to be collected from school. The Father refused and said that the exclusion was unlawful, and he became aggressive on the telephone to the schoolteacher. I have heard the evidence of both the Father and of the school teacher and I am satisfied that on that occasion the Father was aggressive and rude to the school teacher, the Father has since maintained that the exclusion was illegal but has provided no evidence as to why he has that opinion. This was not the first of a number of concerning behaviours exhibited by the child. The Father now says that he did not consider it was safe for his son to be at that school but it is difficult to square that circle with his refusal to collect his child and leave him on his own case in such an unsafe situation.

(f) On 21st September 2020 the Father did not return X to school after contact. X was likely to have been aware of the involvement of the Police. (F36)

61. X had been excluded from school for half a day, the school policy required X and his parents to attend a re-integration meeting so they could discuss the exclusion and make future plans. The Father refused to attend at that meeting and as the child was not present the re-integration meeting did not take place. I am unaware of why the Police may have been involved and the reference of F36 it's not in my Court bundle. The finding I make is for the first sentence only.

62. A further reintegration meeting was fixed for the 22nd September but, again, the Father did not attend. X had been returned to the Mother's care so it became possible for X to return to school.

(g) On 24th September 2021, X told the head teacher of his School that she has to do as she is told as his Father has the power and makes decisions about what happens in school (see C92 previous proceedings bundle and C102 main bundle).

(h) On 24th September 2021, X told a member of staff at school that he does not like anyone in his family and wants to die and will climb on the roof.

(i) On 30th September 2020, X gained access to the cutlery tray, placing knives between his finger and attempted to stab a member of staff.

63. I have read the reports and heard the evidence from the school concerning these very worrying escalations in X's behaviour and make the findings sought.

(j) On 6th October 2020 the Father was aggressive at a school meeting in X's presence. X soiled himself. The Father remarked that "he has pissed himself" and called a teacher a "stupid fucking prick".. (C102-3)

(k) On 19th October 2020, X punched his teachers and said that his Father had told him to do so in order to get the teacher he wanted. (C103)..

64. This 6th October was the third attempt at a re-integration meeting, the child had not been at school on the 5th October as the Father was again refusing to bring the child to school as he was saying it was not safe, the Mother was not notified by the Father of his decision and had thought he was at school. The Father did attend the meeting with the child, but it was quite clear that he came to that meeting with his own agenda and he was not prepared to listen to the schoolteacher and considered that the meeting was unlawful. Both the Social Worker and the Guardian were present at that meeting, I have heard the evidence from the school teacher and both of them concerning Father's conduct on this day, I accept that he was physically and verbally aggressive towards the school teacher, she said she could barely get a word in but he was very intimidating he stood up over her with clenched fists and raised his voice to her, X was present during this incident, he then tried to leave the building in the presence of X and other school children, he called a member of staff a stupid fucking prick this was subsequently reported to the school teacher by the member of staff, the Mother also recalls a conversation that she had with X that afternoon when X reported his Father using the same words. The Father does not accept that he used those words, but I find that he did.

65. It is of particular concern that the Father in evidence did not seem to think that he was at fault for this incident. As ever, blame was deflected onto all others present and the fact that the meeting was illegal. There has been no reflection, or insight of the impact this may have had on X or any responsibility that he might share for the fact that during this incident X soiled himself.

66. As a consequence of the Father's behaviour, he was banned from attending the school premises the school teacher's report that this he is the only parent who has been banned by the school. I have considered the evidence of both the father and the school teacher and prefer and accept the teacher's version of events and make the findings sought

(l) X is aware of the Court proceedings. He told the Social Worker that he would be removed from his parents' care.

67. I accept the evidence provided by the school. It is inconceivable given the level of conflict between these parents that he was not aware of this. From the time the first Section 37 report was commissioned and the child made the subject of an interim care order, there was a real possibility that he would be removed from both his parents' care and it is inconceivable that he was not aware of this option.

(m) The application for an EHCP was delayed because the Father refused to sign the application to be made by the school (C103). He made his own application.

68. I am satisfied that there was considerable delay in the school being in a position to progress this. The fact that this should be considered had been known to both parents from at least November 2019.

69. I am satisfied that the threshold criteria is made out in this case.

PROGRESS OF THESE PROCEEDINGS

70. Following the issue of these care proceedings, there were hearings on the 4th and 18th November. X was made the subject of an Interim Care Order on the 18th November. Although the case was not allocated to me, I heard a number of preliminary applications but decided in January 2021 that the case was better dealt with by District Judge Wilson who had been dealing with the latest private law proceedings.

71. In a November hearing the Father agreed to complete the relevant part of the application for the EHCP within 48 hours. I also indicated that there may be a need for an order pursuant to Section 91(14) Children Act 1989 and that this matter should be addressed by the parties in their final evidence (B106).

72. On 18th November 2020 I gave permission for the instruction of Dr Suleman to assess the Father (B108). His report was delayed because of difficulty in obtaining the Father's medical records.

73. The order of 18th November 2020 also provides for:-

- (a) The Father's medical records were to be obtained.
- (b) Various disclosure and timetabling directions were made leading to an Issues Resolution Hearing listed on 1 March 2021.

74. At a hearing on 14th January 2021 (B136) the case was reallocated to District Judge Wilson who had dealt with the last private law applications. The Father's application for a global psychological assessment was adjourned to 26th January 2021 before District Judge Wilson. Further directions were given in preparation for the hearing on 26th January 2021 and in relation to further questions being sent to Dr Banks.

75. The principal provisions of that order of 26th January 2021 (B152):-

- a) The Father's application for a global psychological assessment was dismissed.
- b) A further order was made in respect of obtaining the Father's medical records.
- c) The timetable for the case was amended leading to an Issues Resolution Hearing on 6th April 2021.

76. Dr Suleman's report is dated 9th February 2021. He assessed the Father on 8th December 2020.

His opinion is at E24 onwards:-

- (a) The medical records provided were incomplete.
- (b) The Father agreed that "he reacts to stress with anger" (E24).
- (c) The Father is rigid in his thinking and reacts to stress with anger which can affect his relationship with others.
- (d) 'That it appears he has difficulty controlling anger when exposed to stress and therefore he will benefit from anger management. The therapy can range from 8 to 16 weekly sessions' (E25).
- (e) 'That he is rigid in his thinking and therefore he struggles to accept and understand other's point of view. Therefore, he will have trouble working collaboratively with professionals and his ex-partner.'

77. It is disappointing that despite those recommendations the Father has not undertaken an anger management course. It is unclear if he has taken any steps to seek out such a course, but he has now committed to doing so.

78. Ms Harding the Social Worker also undertook a parenting assessment of both parents. It is dated 24th March 2021 and is at C200.

79. At C205 Ms Harding refers to the fact that X has been caught up in parental acrimony for almost the entirety of his life.

80. She goes on at C206 to make the point that in her view, X has internalised that his Father “has all the power and that others should do as they are told.” X is caught in the fight between the parents: see Paragraph 4.4 on C206. X knows about Court and has said in school that he will be taken away from his parents.

81. On C206-207, Ms Harding describes the Father’s behaviour towards the school and CAMHS. As she points out, the Father becomes consumed in his opinion that the school and CAMHS have breached statutory rules or codes of conduct, but nothing changes for X.

82. The Mother has always co-operated and has attended every course and worked with all agencies to which she has been referred. Credit must be given to her for that, but the unintended consequence may be that she views herself as a victim.

83. Ms Harding comments about Father that, in her view:-

“Relentless is a word that I would use for Father – if he believes that he is correct then he will stop at nothing to challenge the system and every part of it – this in itself is fully acceptable if he were correct, however, I do not see how every agency is against him and being dishonest in its conduct. His manner in my opinion does affect how people will engage with him and at times those involved with him will want to avoid communication, this will frustrate Father.” C213, Paragraph 7.2)

84. Ms Harding observes at C214, Paragraph 7.6 that Father does not express much emotion and appears rigid: in fight or defence mode.

85. The report confirmed that the child’s basic care needs are met by the parent in whose care at any given time he was, and that had never been an issue within the history of Social Services.

86. That it is ‘the relationship between the parents and their toxic connection that causes the difficulties X’s difficulties are not the problem his parents are’.

87. Her assessment was that both parents have the capacity to respond to the child appropriately and show him love and guidance, what they cannot seem to give him is stability through the ever-changing positions and the need for the Father to be seen as equal to the Mother in terms of their son.

88. Given the totality of the history of this case and the points made by the Social Worker in her parenting assessment it was with some surprise that the recommendation was for a 50/50 shared care arrangement between the parents.

89. However, the Social Worker says that she saw a change in the parents during a 3 hour meeting that she had with them on the 27th March 2021, she was clear with both parents that the blame game had to stop and that they had to start to work co-operatively together, she says she saw a change in their understanding and both expressed the desire to make it work, she says the meeting concluded with them hugging each other and that they both went to collect the child from school together much to the child's delight. She said that she truly felt at the time that we were all going to make it work and that we had all agreed and signed up for it.

90. The Father was clear in his evidence that the talk about the blame game stopping was addressed to the Mother and not to him. It was clear that it applied equally to both.

91. A colour coded chart was agreed between them so that visually they could see the periods of time they would each have the child's care.

92. It is acknowledged by both parents that they were aware that this was the last chance they would have.

93. The plan was put before District Judge Wilson on the 6th April. Everyone who was at that hearing apart from the Father says they had agreed both before and at the hearing that this plan would start at the beginning of the new school term which was the 19th April (with the first attended day being the 20th – the 19th being an inset day).

94. The Local Authority applied for a period of purposeful delay to put this agreement into practice. It sounds as if District Judge Wilson was rather sceptical as to whether there was any chance of the plan working. He told both parents it was last chance saloon. Both parents confirm he said this, and they knew this.

95. One of the difficulties was at the time the Father was still banned from the school premises so collection and delivery to school would be problematic. The Social Worker agreed to deal with the school to remove that obstacle. This was duly done although not until the 20th April as it was the school holiday period until the 19th April. The school (and I am

satisfied having read the email) lifted the Father's ban. District Judge Wilson at the hearing discussed with the Father his ability to delegate parental responsibility to his partner so that she could do the school runs if there was a problem with the ban, so in my judgment there was no reason for the Father not getting the child to school at the start of the new school term.

96. In light of the concession, the Father had made on threshold there did seem to have been a change and maybe some optimism that the arrangement might work.

97. Accordingly, the Issues Resolution Hearing did not proceed, and the Court granted an extension to the timetable so that this agreement could be put in place and be assessed.

98. Directions were made to lead to a further hearing in mid-June.

99. Sadly, however, it did not get off the ground. The first day back at school was the 20th April. X was in the Father's care at the time. I am satisfied he and everyone knew the new arrangement started on the first day of the school term.

100. However on the 16th April the Father informed the Social Worker that he would not be taking X to school on the 20th. The Social Worker wrote an email on the same day.

'David, Please can you tell me what it is that I have done wrong? You wanted the opportunity to take X into school – you got that and your contact was changed to an overnight stay on a Sunday. You said you wanted a 50/50 split again I have listened to you to try and understand how you feel as a Father, I have given you the opportunity to try this. Is this not what you wanted? As soon as the schools open I will ask again for a meeting to try and resolve the ongoing issues with X's Education.'

101. She is right in that email. She had done what the Father says he had been wanting for years. Equality. But as soon as he got what he wanted it seems that was not enough for him.

102. He did not return X to school but got his partner to return him to the Mother's property at 8.45 am that morning. He was not in his school uniform. He had not told the Mother of his decision. She was not expecting him. He can see nothing wrong with his conduct on that morning. As a result, his son had a disturbing start to the new term, and a difficult day at school. He needed a packed lunch and the Father was contacted to supply it, as the school also understood he was in the Father's care, but he refused to make any arrangements to resolve the issue. The Mother dealt with this and collected her son from school as it was clear the Father was not going to do so.

103. It was perhaps naive given the history to think that this plan had any chance of working, but the Father had on a plate exactly what he wanted and in my judgment it is entirely his fault that it did not work. He blames everyone else for this. But the fault is his and his alone.

104. The Guardian applied for a further hearing because the arrangements anticipated at the hearing on 6th April 2021 had broken down. Contact did not take place over the weekend of 23rd/24th April 2021. On another occasion, the weekend of 15th/16th May 2021, contact did not take place because the Father is said to have declared that he would not have contact, then went to the Mother's house in a different car so X was not sent out to him. The Father attended X's PEP on 29th April 2021 but was removed from the meeting as he was abusive.

105. On 20th May 2021 District Judge Wilson made a further order (B195):-

(a) The Issues Resolution Hearing on 28th June 2021 was vacated and re-listed on 5th July 2021 and the Final Hearing listed on 19th to 23rd July 2021.

(b) It was also directed that any application for an order under Section 34 Children Act 1989 had to be issued by 28th May 2021.

106. The Father made an application for a specific issue order (he had earlier in the proceedings made an application for X to be home educated which had been refused) and for him to be educated at another school (close to where he was then living) from September 2021. The grounds for the application are stated as being to remove X from the difficult relations that have been established at his existing school. That the Father feels that they have disregarded the wishes and feelings of X to the detriment of his emotional wellbeing. The school also excludes the Father from all decision-making regarding X fail to notify him of decisions regarding X fail to adhere to statutory guidance and legislation which leads to delays in support for X which are detrimental to X's education. He believes that X's educational and emotional needs would be met at a higher standard at the other school.

107. On 3rd June 2021 Deputy District Judge Hartley ordered:-

(a) The Father's application for a specific issue order with regard to X's school was adjourned to be considered at the final hearing.

(b) The Father's contact was defined as being on alternate weekends from Friday at 4.00 pm to Sundays at 4.00 pm.

(c) A PHR took place on 5th July 2021 (District Judge Wilson) (B213) when the timetable for the case was extended to 23rd July 2021.

108. On 16 July 2021 the Local Authority applied for a third-party disclosure order for disclosure of statements from the Father's older children's schools.

109. The matter came before the Court on 19th July 2021 (B227) and at this hearing the Father applied to adjourn the hearing on the basis that he would not be able to participate fairly in the hearing because he was no longer able to attend the hearing from Counsel's chambers or in the presence of Counsel in light of Covid restrictions. Furthermore, he was only able to join the hearing from his smartphone and was not able to confirm he would be in a private place for the whole 5 days. Arrangements for X to spend time with his parents over the Summer holidays were set out in the recitals. The Local Authority was given permission to serve statements from the schools attended by the Father's older children. The matter was listed for Final Hearing on 4th- 8th October 2021. This hearing was later vacated and re-listed on 11th to 15th October 2021.

110. On 23rd September 2021 the Local Authority made a C2 application for disclosure from another Local Authority in which the Father's other children resided in relation to allegations of physical and emotional abuse by the Father against his partner (now ex-partner) and two of his older children.

111. On 7th October 2021 the Court (District Judge Ball) was not able to hear the Local Authority's application as the Father dispensed with the services of his Counsel shortly before the hearing and his Solicitor was not able to take over at short notice. The matter was re-listed on 14th October 2021 (District Judge Ball), at that hearing the Court refused the Local Authority's application on the basis that it was non-compliant with CPR 32.16, notably not being supported by a statement and the other Local Authority had not been served with notice of the application. (B250)

112. At the hearing on 7th October 2021 the Final Hearing had to be re-listed on the basis of judicial unavailability, and was listed for: 23rd – 25th, 30th November and 1st December 2021 before myself.

113. On 2nd November 2021 the Local Authority made a C2 application for disclosure from the Local Authority and the Police, and also to discharge the Section 34 Order made on 3rd June 2021 (B253). This application was supported by a statement. (C432)

114. The matter came before the Court on 15th November 2021 (Her Honour Judge Black) for the hearing of the Local Authority's C2 application. I did not have the bundle and was not in a position to determine the application, which was put over to the first day of the final hearing.

115. Following the failed plan in April the Local Authority filed a care plan proposing that there should be an order for X to live with the Mother and for the Father to have alternate weekend contact from Friday to Sunday and on Friday to Saturday in the alternate week. The plan is silent about how they envisaged this plan working and it is difficult to see how the Local Authority were thinking this plan would work when this and a number of different

variations on the same theme had been attempted over several years without any lasting success.

116. The thinking of the Local Authority changed following being notified of events that had occurred in August with the Father's family. The Father resisted the disclosure of documents relating to those events, but they were allowed into these proceedings by myself on the first morning of the hearing. They are obviously relevant to the determination of the current applications before the Court. I am not and do not make any findings concerning the truth or otherwise of what is said in those reports, but the fact that such reports have been made are relevant to the decisions I have to make.

117. On the 1st August 2021 the Police went to the Father's property following a report of shouting and screaming coming from the property (it now appears that that report was made by the Father's 14 year old son who was in the property at the time) the Police were reassured by the Father and his partner and the 18 year old child that all was well and that no criminal offences have been committed.

118. X was not in the property at the time at this event place.

119. On the 5th August 2021 the 14 year old son made an online referral to the Police in which he says that his Father is verbally and mentally abusive and overall an aggressive person and a danger to the household that he is controlling and invasive with many parts of our lives that he is probably threatening and says violent threats to us regularly. He goes on to deal with the events of the first August in which he says his sister was hurt.

120. On the 6th of August his sister went to the Police Station and made a statement to the Police she identified bruising that she says the Father had caused and explained that it was because she was terrified of the Father and therefore gone along with the story that nothing had happened on the 1st of August.

121. On the 19th of August she asked the Police to drop at the charges and it would appear that the Police have taken no further action.

122. The Father was interviewed concerning the allegations and he said that there was a dispute between himself and his partner over social media and that the daughter had got involved in it.

123. In his statement provided in these proceedings, he had said that in fact he was the victim on at that day and that he was subject to an assault by his partner which caused injuries to his ear and neck and he exhibits to his statement photographs of those injuries.

124. It is clear even on the Father's account that there was a violent incident which occurred on the 1st August it would appear as following that incident the Father left the family home and has not returned. His other children are now the subject of child protection planning as a result of this incident.

125. X was returned to the care of his Mother the Father last saw X on the 10th of August and has not seen him since.

126. As a consequence of those events the Social Worker offered supervised contact to the Father: I am satisfied that he has declined it which meant for a 15-week period he has not seen his son.

127. APPLICATIONS/ISSUES TO BE RESOLVED.

128. The Local Authority supported by the Mother and the Guardian seek a Supervision Order for 12 months.

129. The Father seeks a specific issue order for the child's school to be changed.

130. The Mother seeks a specific issue order for the child to remain at his current school.

131. The Mother supported by the Local Authority and the Guardian seeks an order which will restrict the Father's ability to exercise his parental responsibility in the light of the harm caused by Father's refusal to give consent, in particular, in relation to educational and therapeutic support and intervention.

132. The Local Authority supported by the Mother and Guardian seeks an order for the child to live with the Mother and for the Father to have monthly supervised contact supervised by two supervisors.

133. The Father seeks a shared care arrangement whereby the child spends 50% of his time with each parent.

134. A Section 91(14) order prohibiting any further applications by either parent for 2 years this is supported by all parties other than the Father.

LAW

135. Section (1) Children Act 1989

(1) When a Court determines any question with respect to:-

(a) The upbringing of a child; or

(b) The administration of a child's property or the application of any income arising from it, the child's welfare shall be the Court's paramount consideration.

(2) In any proceedings in which any question with respect to the upbringing of a child arises, the Court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

(2A) A Court, in the circumstances mentioned in subsection (4)(a) or (7), is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare.

(2B) In subsection (2A) "involvement" means involvement of some kind, either direct or indirect, but not any particular division of a child's time.

(3) In the circumstances mentioned in subsection (4), a Court shall have regard in particular to:-

(a) The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);

(b) His physical, emotional and educational needs;

(c) The likely effect on him of any change in his circumstances;

(d) His age, sex, background and any characteristics of his which the Court considers relevant;

(e) Any harm which he has suffered or is at risk of suffering;

(f) How capable each of his parents, and any other person in relation to whom the Court considers the question to be relevant, is of meeting his needs;

(g) The range of powers available to the Court under this Act in the proceedings in question.

(4) The circumstances are that:-

(a) The Court is considering whether to make, vary or discharge a Section 8 order, and the making, variation or discharge of the order is opposed by any party to the proceedings.

(5) Where a Court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

(6) In subsection (2A) “parent” means parent of the child concerned; and, for the purposes of that subsection, a parent of the child concerned:-

(a) Is within this paragraph if that parent can be involved in the child's life in a way that does not put the child at risk of suffering harm; and

(b) Is to be treated as being within paragraph (a) unless there is some evidence before the Court in the particular proceedings to suggest that involvement of that parent in the child's life would put the child at risk of suffering harm whatever the form of the involvement.

Practice Direction 12 J applies to any family proceedings in The Family Court or the High Court under the relevant parts of the Children Act 1989 or the relevant parts of the Adoption and Children Act 2002 in which an application is made for a child arrangements order, or in which any question arises about where a child should live, or about contact between a child and a parent or other family member, where the Court considers that an order should be made.

The purpose of this Practice Direction is to set out what the Family Court or the High Court is required to do in any case in which it is alleged or admitted, or there is other reason to believe, that the child or a party has experienced domestic abuse perpetrated by another party or that there is a risk of such abuse.

Interpretation

2A. In this Practice Direction, “domestic abuse” has the same meaning as in the 2021 Act. Sections 1 and 2 of the 2021 Act provide that:-

“Definition of “domestic abuse”

(1) This section defines “domestic abuse” for the purposes of this Act.

(2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if:-

(a) A and B are each aged 16 or over and are personally connected to each other; and

(b) The behaviour is abusive.

(3) Behaviour is “abusive” if it consists of any of the following:-

(a) Physical or sexual abuse;

(b) Violent or threatening behaviour;

(c) Controlling or coercive behaviour;

(d) Economic abuse (see subsection (4));

(e) Psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

“coercive behaviour” means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

“controlling behaviour” means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour;

“development” means physical, intellectual, emotional, social or behavioural development;

“harm” means ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another, by domestic abuse or otherwise.

136. In proceedings relating to a child arrangements order, the Court presumes that the involvement of a parent in a child’s life will further the child’s welfare, unless there is evidence to the contrary. The Court must in every case consider carefully whether the statutory presumption applies, having particular regard to any allegation or admission of harm by domestic abuse to the child or parent or any evidence indicating such harm or risk of harm.

137. Factors to be taken into account when determining whether to make child arrangements orders in all cases where domestic abuse has occurred.

138. When deciding the issue of child arrangements, the Court should ensure that any order for contact will not expose the child to an unmanageable risk of harm and will be in the best interests of the child.

139.

(1) In the light of:-

- (a) Any findings of fact;
- (b) Admissions; or
- (c) Domestic abuse having otherwise been established;

the Court should apply the individual matters in the welfare checklist with reference to the domestic abuse which has occurred and any expert risk assessment obtained.

(2) In particular, the Court should in every case consider any harm:-

- (a) Which the child as a victim of domestic abuse, and the parent with whom the child is living, has suffered as a consequence of that domestic abuse; and
- (b) Which the child and the parent with whom the child is living is at risk of suffering, if a child arrangements order is made.

(3) The Court should make an order for contact only if it is satisfied:-

(a) That the physical and emotional safety of the child and the parent with whom the child is living can, as far as possible, be secured before, during and after contact; and

(b) That the parent with whom the child is living will not be subjected to further domestic abuse by the other parent.

140. In every case where a finding or admission of domestic abuse is made, or where domestic abuse is otherwise established, the Court should consider the conduct of both parents towards each other and towards the child and the impact of the same. In particular, the Court should consider:-

(a) The effect of the domestic abuse on the child and on the arrangements for where the child is living;

(b) The effect of the domestic abuse on the child and its effect on the child's relationship with the parents;

(c) Whether the parent is motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent;

(d) The likely behaviour during contact of the parent against whom findings are made and its effect on the child; and

(e) The capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse.

Article 8 Human Rights Act 1998

Everyone has the right to respect for his private life his home and his correspondence

There shall be no interference by a public authority with the exercise of these rights except such as in accordance with the law and is necessary in a democratic society in the interests of national security public safety or the economic wellbeing of the country for the prevention of disorder or crime or the protection of health and morals or the protection of the rights and freedoms of others

DISCUSSION

141. This is a very sad case where there is no real satisfactory outcome, in particular, for a boy who would love nothing more than to be able to move freely between his Mother and Father and to live at different times with each of them without conflict.

142. This is particularly a sad case when this child is so loved by both parents and is described by the Social Worker as being their Golden Boy, the Mother says that her son holds his Father on a pedestal and, therefore, for the Court to now be considering monthly supervised contact is a great shame and loss to this boy.

143. The Mother has worked well with the professional services during the course of these proceedings, she has a good working relationship with the Social Worker and with the school, and has been involved with the school in seeking and implementing advice that they have given her in supporting her son. She has grown in confidence during the proceedings and the Local Authority have been an important buffer between her and the Father. In particular, where there has been a dispute the Local Authority have been able to exercise their parental responsibility to ensure that things get done. It seemed to me that she has been worn down by these proceedings over the years and the constant challenges from the Father. In her evidence she seemed to me to be honest and trying her best for her son. I have no doubt that she has her son's best interests at heart and will continue to work hard with the school and Local Authority, so that she can be the best Mother to her son as she can be.

144. The Father during the course of these and earlier proceedings, raised issues concerning the quality of the Mother's parenting but given that the Father's case is that there should be an equal sharing of their son, it follows that he cannot have at any concerns that warrant a restriction on the time that she cares for him. It has not been necessary during the course of this hearing to consider the complaints that the Father has made of the Mother's poor parenting and he has not asked me to.

145. It seems to me that the Father is really the author of his own misfortune. He had on a plate in April the opportunity to equally care for his son, but he did not take it up. Instead he has continued to blame everyone except for himself. It is difficult to start to consider his position for shared care again now when it has been tried and failed.

146. The evidence I heard from both the school, Social Worker and Guardian seemed to despair of this Father who is more keen on the fight than doing what is best for his son. There may well have been faults with the professional services and on occasions not strict compliance with all the statutory provision, but he has made no effort to build bridges or achieve a good outcome for his son. These professionals instead have had to put up with poor behaviour and his complaints.

147. There has been no reflection by the Father on the impact of his behaviour either on those professionals or on his son. There has been no insight into the effect on his son by preventing him from having access to therapeutic services, an EHCP plan, a referral to CAMHS or missing out on school trips. None of it is on his case his fault.

148. When approving the plan in April he had the support of his long-term partner and that was obviously an important part of the assessment as she would be able to assist him in caring especially when he was at work. Not only do we now know that was a domestically abusive relationship given on his case the violent assault upon him by her but there is little information he has provided as to where he would be living, and how he would be able to

care for his son, and the impact that would have on his work arrangements when it seems he works a considerable distance from his home.

149. He had been encouraged by the Social Worker to provide information about all of this, but he has been disinclined to do so. It was only on the first morning of the hearing that he disclosed he had secured rented property at an address close by to the Mothers. He says he has family close by (which is not accepted by all other parties), and it is a cheap area to live but it seems an ill-advised step especially as the Mother and Local Authority consider it to be more about control than anything else. I suspect they are right about that. It is disappointing that the Father did not think about the impact this might have on the Mother.

150. In stark contrast to these descriptions of the Father, is the delightful child focused letter he produced to be given to X to start the process of reconnection given the gap of 15 weeks of no contact. It was so thoughtful and in such contrast to the other emails I have seen it provides a glimmer of hope for the future, but only time will tell if there is any sustained progress or change of attitude by the Father.

151. The Father has for the reasons set out in his application detailed at Paragraph 129 a wish to change the child's school. Notwithstanding that, he has not lived close to that school since August and it is outside the catchment area of both parents, he did not change his view until the second day of the Court hearing as to the school he wished for his son to attend.

152. His application was not supported by any information about enquires he had made, as to whether there was a good chance of them accepting him or whether they had any vacancies or any specialist facilities to provide him with the level of support he requires. There was no consideration as to how the Mother, who does not drive, would be able to get him to and from that school which was some distance from her. There was no consideration as to how easy it would be to change the name of the school identified in the EHCP plan he now has.

153. During the course of this final hearing, he has heard that his son by the end of last term had caught up with his learning and had been close to achieving all year 2 targets. He had made 2 years' worth of progress in 1 year. He has now moved to the junior school and it was reported that he has settled in, has made trusting relationships with members of staff and has won a headteacher's prize. He heard from all the witnesses that his boy needed consistency and routine and that a change of school would be disastrous for him.

154. Despite all of this, the Father persists in what can only be considered a wholly unmeritorious application. He has now changed the proposed school to one that is closer to both parents and has a good OFSTED report. But, otherwise, it seems it is nothing more than putting a pin in a map. It seems that his application is no more than anywhere other than his current school will do. But that is just not good enough, and he has not started to make out a case for a change of school or provided the Court with any information to show

that it would be better and, in his son's, best interests to do so. I was tempted to summarily dismiss this application on day 2 given the lack of information but decided on balance it was better to see what the Father made of the positive evidence he had heard and had hoped that he might have reflected on that. Sadly, again, there has been no reflection or consideration on the impact on his son of pursuing this application. The application is dismissed. It follows for the avoidance of doubt that his current school should be confirmed as the school he should attend.

155. In considering specially the welfare checklist:-

(a) The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding):-

X is a 7-year-old boy. He has been clear that he would want nothing more than his parents to be together. That of course is an unachievable goal but reflects the importance of both parents in his life. I am sure that he would want nothing better than being able to move freely between both parents and for them to get on. In my judgment the evidence of the last 6 years is that that is equally unachievable. More recently it seems to me that he has been confused by the lack of contact that the Father has had with him and has expressed the view that he would want to see his Father but would like him not to be shouting.

(b) His physical, emotional and educational needs:-

These have been documented throughout this judgment: he has specific educational and emotional needs, the extent of which is still subject to investigation and assessment. The importance for a need for consistency and routine is reflected in the evidence. He still awaits his assessment for ADHD due to the lengthy waiting lists at CAMHS and the delay in getting him on that list.

(c) The likely effect on him of any change in his circumstances:-

This is difficult to assess. He has always had his primary home with his Mother, and even under the Father's proposals he would spend 50 per cent of his time with her. Until August he was seeing and spending significant periods of time with his Father, although as documented this has been fraught with difficulties over the years. He seems to have managed the 15 weeks without seeing his Father and if anything, it seems to have been a period of calm for him and he has settled well into his new school. Moving to supervised contact will enable him to have a continued relationship with his Father which will be an improved position for him although unless inter sibling contact can be arranged separately between the Mother's he will continue to miss his siblings who are important to him.

(d) His age, sex, background and any characteristics of his which the Court considers relevant:-

He is a 7-year-old boy with seven half siblings all of whom are important to him.

(e) Any harm which he has suffered or is at risk of suffering:-

This is well documented within this judgment and in particular in the threshold criteria, until such time as the needs and welfare of X become the parents priority he will continue to suffer emotional harm predominantly caused by the Father, there is also a risk of physical harm if there were further violent altercations between the Father and his (former) partner when he was present.

(f) How capable each of his parents, and any other person in relation to whom the Court considers the question to be relevant, is of meeting his needs:-

I am satisfied that the Mother is capable of meeting her child's needs, historically this has not been the case, but she has moved on and is now much more focussed on her son. Despite her own feelings towards the Father, she has still promoted contact and a relationship between her son and the Father, she acknowledges how important the Father is to her son and I do not doubt that she will continue to promote contact in the future. She has worked hard with the school and has been trying for a very long time to obtain the help that her son needs and during the time the Local Authority has shared parental responsibility this has been easier to be achieved as it has been able to possibly to override the Father's objections.

While the assessment of the Father indicates that he could meet the basic care needs of his son (although in any event that would now need to be reassessed given the significant changes that have occurred in his living conditions since that assessment took place and given the lack of any clarity about the plans for the future) there is ample evidence of the Father's failure to meet or even start to understand his son's emotional needs or the impact that his behaviour has had on his son.

There are many examples contained in this judgment, and many more in the 1600 pages of documents I have for this hearing. It has been really disappointing hearing the Father's evidence and his inability to reflect on anything that has happened or start to accept any responsibility for it. His tunnel-visioned fight with the authorities and professionals has resulted in delays to the input of CAMHS the preparation of the EHCP and the other supports that the school could have put in place for his son, which would have made his start to his school life much less problematic for him. His son has seen him challenge and be aggressive to schoolteachers and to his Mother on many occasions and to the extent that on the 6th October he wet himself.

(g) The range of powers available to the Court under this Act in the proceedings in question.

156. PD 12 J is engaged given the findings that have been made by the Court.

157. Given the controlling and coercive behaviour of the Father (and his lack of any acceptance of it) arrangements now need to be put in place that will not continue to expose X to that unmanageable risk of harm in the future.

158. Over the years there have been many different types of 'contact' arrangements made, varying the length of time X would spend with his Father, varying the arrangements of collection and return to minimise the involvement of both parents in those arrangements and therefore the risks. But all have broken down. Those arrangements do of course range from weekend staying contact, days visits to a 50/50 shared care arrangement. All have resulted in further applications to the Court to the extent that there have been at least 13 applications in 6 years. The parents were warned in April that the shared care was their last chance and the reality is now that the Court has exhausted all options other than considering supervised contact. The Father puts forward no other option for the Court to consider other than another stab at the 50/50 shared care arrangement. This is not something for the reasons given already that the Court can consider. It is quite frankly extraordinary that the Father would still think that this would be a realistic option.

159. It has been in my judgment a difficult decision for the Social Worker and Guardian to come to. They have dedicated huge amounts of time and energy in trying to make any other arrangement work and have not been deflected by the complaints that have been made, the bombardment of emails and demands for information. When giving their evidence there was a sense of failure that they had not been successful despite those efforts. If there had been any other option other than supervised contact, they would have proposed it.

160. The Local Authority, supported by the Mother and Guardian now say as a result of that all other options having been tried and failed that the only safe option is for this Father to have supervised contact and for there to be some restrictions on his ability to exercise his parental responsibility which would otherwise thwart the efforts of the Mother and professionals to make decisions about his sons education and therapeutic support. I agree.

161. The Father is fast running out of options and if this order does not work then he needs to be aware that the Court may then need to consider prohibiting any direct contact with him. I would hope that he would carefully reflect on this judgment and as a result I would hope that would not be necessary, but enough is enough and the history of the last 6 years cannot continue.

ORDERS

For the reasons given in this judgment I will make an order for X to live with his mother and for the father to have supervised contact with his son once per month.

I confirm that X should remain at his current school and the application for a change of school is dismissed

162. I am asked to make prohibited steps orders that may have the effect of restricting the Father's exercise of parental responsibility. If such an order is necessary and following various drafts being considered the Father proposes the following terms:-

The Father cannot attempt to influence or be consulted about decisions regarding:-

- a. Any aspect of the child's EHCP and review of the same; or
- b. The child's involvement with CAMHS or any other therapeutic agency, and any therapy or work recommended by CAMHS for the child; or
- c. The child's education insofar as his participation in any events or activities organised by or on behalf of the school;

if any school or education establishment, CAMHS and any agency which is contemplating providing therapeutic services with the child considers it *not* to be in the interests of the child for the Father to be so consulted or involved. The level of such consultation or involvement shall be at the sole discretion of that agency.

163. These in the circumstances seem a reasonable and proportionate interference with the Article 8 rights of the Father and family.

164. Those working or being asked to work with the Father should be aware that the Father has parental responsibility and that he wishes to be fully involved in decisions involving his son. The extent that that can be respected by them will depend on the conduct and behaviour of the Father going forward and this order allows them to do so without the Father's engagement or consent. That decision is in their discretion.

165. It is my view that they should consider that as a result of the decisions now made that there should be a reset in their relationships, with the slate wiped clean and a fresh start and so a further attempt should be made by all to engage with and include the Father in decision making for his son.

166. If, however, he has not reflected on this judgement and continues to seek to control all decisions concerning his son then they will no doubt decide not to include him in that process.

167. If he continues to bombard them with communications and/or is demanding more and more information then they will no doubt decide not to include him in that process.

168. If he refuses to attend or cancels meetings that he is invited to then they will no doubt decide not to include him in that process.

169. If he is rude or aggressive to any professional then they will no doubt decide not to include him in that process.

170. The ball is firmly in the Father's Court to make this work. Otherwise he will not be involved.

171. The parties other than the Father seek a supervision order for 12 months. I think that is a sensible and proportionate order to make in the circumstances of this case.

172. Finally, a Section 91(14) order is sought for 2 years. With the history of this case, the multiple applications that have been made, the time has come for this boy to have break and be allowed to be a little boy and not subject to further litigation for a period of time. He needs some respite from the last 6 years I think that is obvious from everything else said in this judgment that such an order is justified.