

**THE HIGH COURT
CIRCUIT FAMILY COURT APPEAL (DUBLIN)**

DUBLIN CIRCUIT

COUNTY OF THE CITY OF DUBLIN

[2023] IEHC 759

Record No. 2022 83 CAF

**IN THE MATTER OF THE JUDICIAL SEPARATION AND FAMILY LAW
REFORM ACT, 1989 AND IN THE MATTER OF THE FAMILY LAW ACT,
1995 AND IN THE MATTER OF ANY APPEAL FROM THE CIRCUIT
FAMILY LAW COURT**

BETWEEN/

M

APPLICANT

AND

N

RESPONDENT

JUDGMENT of Ms. Justice Jackson delivered the 23rd day of November 2023.

INTRODUCTION

1. The Applicant and the Respondent were married in July 2008. They had lived together for a number of years prior to their marriage and they acquired the family home during this time. There are three children of the marriage, two of whom remain dependent within the meaning of the legislation. The two dependent children are aged 16 and 8 respectively. All family members remain living in the family home. There is no doubt that this family has faced considerable challenges in the past number of years. However, it is my view that it is vitally important that the parties to the present case do not lose sight of their huge positive achievements over the course of their relationship. The Applicant and the Respondent are clearly talented and industrious people. They both have enjoyed considerable career success, co-operated to enable academic achievement to continue during the relationship and have extra-curricular talents. This is not to forget their greatest achievement which has

been to bring into the world and nurture three children with whom they both have strong bonds of love and attachment. These achievements should not be forgotten in the negativity and challenges of more recent times.

2. The Notice of Appeal herein, dated the 21st December 2022, is from the whole of the Judgement of the Circuit Family Court of the 20th December 2022. In this context, the first matter to be determined relates to the granting of the Decree of Judicial Separation in respect of the marriage of the parties. On the evidence before me it is amply clear that there has been no normal marital relationship between the parties for in excess of twelve months prior to the institution of proceedings herein being such period prior to the 17th August 2021. I will therefore affirm the Order of the Circuit Family Court in granting a Decree of Judicial Separation on the grounds set out in Section 2(1)(f) of the Judicial Separation and Family Law Reform Act, 1989 ('the 1989 Act'). The date of such Decree will be the 20th December 2022.
3. In the context of affirming the granting such a Decree, the legislation mandates that such Decree may only be granted if proper provision exists, has been made or can be made for the dependent children. Section 3(2) of the 1989 Act (as amended) provides as follows:

(2) (a) Where there are, in respect of the spouses concerned, any dependent children of the family, the court shall not grant a decree of judicial separation unless the court—

(i) is satisfied that such provision has been made, or

(ii) intends by order upon the granting of the decree to make such provision, for the welfare of those children as is proper in the circumstances.

(b) In this subsection—

“dependent children of the family” has the same meaning as it has for the purposes of Part II of this Act;

“welfare” comprises the religious and moral, intellectual, physical and social welfare of the children concerned.

I am satisfied that such provision can be made and ought to be made on the basis of the ancillary reliefs provided for hereinafter. In addition, section 16(1) of the Family Law Act, 1995 (as amended) ('the 1995 Act') provides that in deciding the ancillary orders to be made, "*the court shall endeavour to ensure that such provision exists or will be made for each spouse concerned and for any dependent member of the family concerned as is proper having regard to all of the circumstances.*"

4. While all of the circumstances of the family must be taken into account, Section 16(2) and Section 16(4) of the 1995 Act set out a most useful list of particular circumstances to which a court must have regard.

(2) Without prejudice to the generality of subsection (1), in deciding whether to make such an order as aforesaid and in determining the provisions of such an order, the court shall, in particular, have regard to the following matters—

(a) the income, earning capacity, property and other financial resources which each of the spouses concerned has or is likely to have in the foreseeable future,

(b) the financial needs, obligations and responsibilities which each of the spouses has or is likely to have in the foreseeable future (whether in the case of the remarriage of the spouse or otherwise),

(c) the standard of living enjoyed by the family concerned before the proceedings were instituted or before the spouses separated, as the case may be,

(d) the age of each of the spouses and the length of time during which the spouses lived together,

(e) any physical or mental disability of either of the spouses,

(f) the contributions which each of the spouses has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other spouse and any contribution made by either of them by looking after the home or caring for the family,

(g) the effect on the earning capacity of each of the spouses of the marital responsibilities assumed by each during the period when they lived together and, in particular, the degree to which the future earning capacity of a spouse is impaired by reason of that spouse having relinquished or foregone the opportunity of remunerative activity in order to look after the home or care for the family,

- (h) any income or benefits to which either of the spouses is entitled by or under statute,*
- (i) the conduct of each of the spouses, if that conduct is such that in the opinion of the court it would in all the circumstances of the case be unjust to disregard it,*
- (j) the accommodation needs of either of the spouses,*
- (k) the value to each of the spouses of any benefit (for example, a benefit under a pension scheme) which by reason of the decree of judicial separation concerned that spouse will forfeit the opportunity or possibility of acquiring,*
- (l) the rights of any person other than the spouses but including a person to whom either spouse is remarried.*

Further, Section 16(4) of the 1995 Act (as amended) provides:

(4) Without prejudice to the generality of subsection (1), in deciding whether to make an order referred to in that subsection in favour of a dependent member of the family concerned and in determining the provisions of such an order, the court shall, in particular, have regard to the following matters:

- (a) the financial needs of the member,*
- (b) the income, earning capacity (if any), property and other financial resources of the member,*
- (c) any physical or mental disability of the member,*
- (d) any income or benefits to which the member is entitled by or under statute,*
- (e) the manner in which the member was being and in which the spouses concerned anticipated that the member would be educated or trained,*
- (f) the matters specified in paragraphs (a), (b) and (c) of subsection (2),*
- (g) the accommodation needs of the member.*

5. I have had regard to these particular circumstances and also to the general circumstances of this family in deciding the issue of proper ancillary reliefs in this case. I am mindful that I am mandated to make proper provision for all family members.

6. This case comes before me by way of an appeal from the Circuit Family Court. In this context, it is important to state that this is a *de novo* hearing and, while the Court is aware of the Orders made in the Court below, the circumstances pertaining at the time of the

hearing before this Court were significantly altered from those pertaining when the matter was heard by that Court approximately one year ago. I use the term “significantly” because, while progress has been made by the Respondent in relation to her addiction and mental health issues, there remains considerable work to be done in this regard. It is of enormous importance to this family that the positive progress that the Respondent has made to date is built upon. However, it is also important that she take responsibility for the family difficulties which have ensued from her addiction and that she realise the impact which her actions in this regard have had on the family as a whole and upon the Applicant in particular in terms of breaches of trust and in terms of very real and understandable trauma which he has experienced arising from the sequelae of her addiction habits. While the marital relationship of the parties has ended, they remain and will remain in a very different relationship going forward as the parents of three children who will require their lifelong love and support. There is a deficit of trust, on both sides, which requires to be addressed by them both in the best interests of their children going forward.

7. I was assisted by the reports and the evidence of the section 32 expert assessor (a psychologist) in this case. This witness was very clear that positive progress has been made by the Respondent but that welfare concerns remain particularly in the context of the Respondent’s continued alcohol consumption post-treatment, her lack of insight into her difficulties and the significance thereof and her seeking to diminish and understate these. I am mindful that the Respondent’s evidence was that she had ceased drinking alcohol in the weeks immediately prior to the hearing. Having regard to the totality of her evidence, however, I am not convinced that the severance of her relationship with alcohol is as clear cut as she sought to present. I was, in particular, concerned about:

- (i) The previous acknowledged untruths to this Court and the Circuit Family Court;
- (ii) The inconsistencies in the evidence of the Respondent in relation to her treatment and addictions;
- (iii) The lack of clarity in relation to testing for substance abuse (exacerbated by the Respondent’s acknowledged previous replacement of the testing sample with that of a third party with the consequent negative results having been previously presented to this Court);
- (iv) The inconsistency in reference to her cocaine usage as between the evidence to me and her medical notes from her period of in-patient treatment; and

(v) Of greatest concern, her evidence which clearly seemed to suggest that she did not appreciate the concerns arising from her engaging in alcohol consumption with the adult child of the family, after her release from hospital for addiction (including alcohol addiction) treatment. This was all the more concerning having regard to the vulnerabilities of this young person, identified in the first report of the expert assessor. It was most difficult to understand the repeated assertions by the Respondent that she had apologised to the children for their experiences in the context of her addiction while at the same time she engaged in alcohol consumption with one of them. It is without doubt most confusing for a child to be told of addiction treatment and to be apologised to for addictive habits only then to be a participant in such activities with the addict, after the treatment concerned. It was notable that the Respondent repeatedly referenced her addiction in the past tense in circumstances in which it is clear that this is a very present issue.

8. I am of the view that there is a lack of insight on the part of the Respondent such that she diminishes the impact of her behaviours upon the family and the children in particular and, additionally, she diminishes the dysfunctionality of the household over a prolonged period and the impact of living with ongoing acrimony for a further period. I found particularly informative the evidence of the expert assessor that silent acrimony is as difficult for children as constant argument.
9. The evidence of the assessor and of the parties is that the children are bonded with and attached with both parents. The bond and commitment of both parents was acknowledged by them both albeit with reservations based upon the case being put forward by them. Both of these parents are, within their current capacities, deeply committed to their children. From the evidence heard, I have formed the view that the greater burden of daily care giving has been provided by the Respondent but both parents were fully engaged in the totality of family life, encompassing work and home care. However, in recent times, the withdrawal by the Applicant has been largely due to his inability to cope with interactions with the Respondent due to her behaviours relating to her addictions. His response to this has been to retreat. From the evidence I have heard, I see no reason why the Applicant would not be in a position to attend to all the children's needs. While there were queries raised by the Respondent as to his ability to do so together with his career commitments, I do not believe

that such queries are justified, particularly having regard to the school hours of the dependent children and the ability of the Applicant to work remotely from home.

10. The evidence of the Respondent was optimistic in nature and, while I am of the view and sincerely hope that there is cause for optimism, I do not believe that the progress is as advanced as the Respondent presents. I am of the view that the most important thing for this family is that the Respondent continue on her road to recovery and that she makes all efforts to restore herself to the position she was in pre-2015. However, the lives of the other family members cannot be put on hold while this, hopefully, happens. These proceedings are in excess of two years old and the family difficulties of longer duration (while there was some disagreement in this regard, the difficulties in terms of the Respondent's addiction would appear to date from at least 2019). It must always be remembered that childhood is short and four years is a huge period of time in that context. I am strongly of the view that this family needs certainty and transparency in terms of proper provision, acknowledging that there may and will be changes in detail as family circumstances evolve.

11. The court appointed assessor herein recommended an arrangement commonly referred to as "nesting" in this case. The assessor herself acknowledged that such arrangements are not without difficulty and involve co-operation between the parties. I share the concerns of the expert. However, in the present case, the short term imperative is the safety and welfare and stability of the children and that this family is freed from the acrimony which pervades day to day life within the family home. The text messages presented to me demonstrate that there is an ability on the part of these parents to co-operate together, albeit with some inconsistencies which were, unfortunately, linked in part to seeking to gain litigation advantage. Hence the importance that litigation ends and provides some headline finality. I am of the view that the challenges to co-operation between the parties result from their continued full time residency together in the family home rather than from an inability to co-operate in relation to day to day matters pertaining to their children. I am mindful that the youngest child is likely to be most impacted by these new arrangements but I am of the view that both parents have ample capacity to provide support during the transition and into the future. I am supported in this view by the report and evidence of the expert assessor.

12. Having regard to the legislative factors which must be considered and applied, as set out above:

A. INCOME, EARNING CAPACITY, PROPERTY AND OTHER FINANCIAL RESOURCES NOW AND IN THE FORESEEABLE FUTURE

There was little dispute at hearing about the Affidavits of Means which had been sworn by the parties. The Applicant has a PAYE salary and has some modest income from musical endeavours. The Respondent currently has income continuance and social welfare payments. There was some opaqueness in relation to the latter. The Respondent continues to receive the children's allowance for the children (this should continue). The Respondent forcefully informed me that she envisaged that she would return to work in the short to medium term and that she was taking steps in this regard which would afford her permanent and pensionable employment. It is my view that, if the Respondent achieves a return to work, her earning capacity is at least equal to that of the Applicant. It cannot be overlooked, however, that she has been out of the workforce for some time and that her expectations must be viewed in the light of her ongoing issues. If she does not return to employment, she will continue to have income continuance and social welfare entitlements.

B. FINANCIAL NEEDS, OBLIGATIONS AND RESPONSIBILITIES NOW AND IN THE FORESEEABLE FUTURE

There are two dependent children who must be cared for. The needs of the parties are largely similar. It must be considered that there is some possibility that a modest contribution might be made by the non-dependent child who is gainfully employed in the context of her continued residence in the family home or elsewhere with either of her parents.

C. STANDARD OF LIVING INCLUDING CURRENT AND ANTICIPATED EDUCATION AND TRAINING

The standard of living of this family conforms with the situation faced by many separating families. The family was in a position to have a comfortable (if not lavish) lifestyle in the context of being one family unit. There are undoubtedly financial challenges to be addressed in the context of separation and the creation of two family units.

D. AGE AND DURATION OF LIVING TOGETHER

The cohabitant relationship of the parties commenced in or about 2003. They continue to cohabit. The Applicant is in his late 50s, the Respondent a little younger. There is no doubt that they are both in a situation where they have a limited borrowing potential to raise a mortgage both in terms of repayment capacity and also in terms of duration of such loan.

E. PHYSICAL OR MENTAL DISABILITIES OF THE SPOUSES AND THE CHILDREN

The Respondent has suffered and continues to suffer mental health difficulties and addiction issues. She has taken some steps along the road of dealing with these however she is but on the path and is not at or likely near the end of such journey at this time. The expert assessor has informed me that she has concerns about the mental health of the Applicant going forward in the event that there is not some conclusion to the family difficulties and an advance towards the physical living apart of the parties. I found this evidence compelling and supported by the evidence of the Applicant. The children have undoubtedly suffered over the last number of years. It is most welcome that therapy has commenced for the minor children. It is difficult not to surmise that the physical manifestation of a non-physical ailment suffered by the youngest child might not be assisted by a reduction in family stress and the dynamic arising from the continued habitation of all family members in the same residence.

F. CONTRIBUTIONS MADE AND LIKELY TO BE MADE IN THE FORESEEABLE FUTURE

Both of the parties are talented and committed people. I heard evidence of different contributions and roles but, overall, I formed the view that this family and its achievements derived from the joint endeavours of the parties. There is no reason to expect that both will not contribute to the best of their abilities going forward. Both are committed to their children and their resources are substantially expended on achieving a pleasant lifestyle for the children.

G. IMPACT OF MARITAL RESPONSIBILITIES ON THE EARNING CAPACITIES OF THE SPOUSES

This issue did not arise in this case.

H. STATUTORY INCOME AND BENEFITS

The Respondent has social welfare payments. I was struck by her industry and knowledge in relation to her entitlements in this regard. The Respondent presents as a person who is, by nature, most capable and able. It is for this reason that her ongoing recovery journey must be supported and encouraged.

I. CONDUCT OF THE PARTIES, IF RELEVANT

There is no doubt that the addiction habits of the Respondent have resulted in the family being exposed to people, events and circumstances which are far from optimal. The addiction habits of the Respondent have had an unfortunate impact on her presentations to this Court and the Court below. Despite this, I am not of the view that there is any conduct on the part of either party such that I must have regard to same in determining proper provision.

J. ACCOMMODATION NEEDS OF ALL MEMBERS OF THE FAMILY

The accommodation needs of this family as a separated family are a most fundamental matter herein. This family must commence the process of *de facto* separation in terms of living separately. The welfare of the children amply dictates that the continuous background of acrimony must be removed. The parties themselves need to evolve towards their separate lives, always having regard to their joint responsibility for and obligation to the children. The Applicant urged me not to go down the nesting route. He also sought an immediate sale or entitlement to purchase the interest of the Respondent in the family home. The Respondent sought the status quo or a nesting arrangement of a more equal nature than that envisaged by the expert assessor. I have determined upon a middle path for a number of reasons.

The children need stability and a diminution in acrimony. All of the family need to progress on to embrace the realities and sequelae of marital breakdown. To give the Respondent a large lump sum now for her interest would result only in these funds being dissipated on lifestyle (including rent) expenditure making the likelihood of her acquiring property in the future much more difficult. Nesting to a relatively modest degree in the short term will provide the children with a relationship with both parents within the comfort, safety and stability of the family home. The Respondent, in the

short term, will require accommodation only for herself as her time with the children will be in the family home. In the medium term, the Respondent can look at improving her accommodation either through return to work or through social welfare housing payments. When she has done so, the nesting may cease and the children will have homes with both parents. The delaying of the sale/buy out will give the Respondent an opportunity to return to work and, with her 50% share of the equity, hopefully be in a position to purchase accommodation. If her addiction prognosis deteriorates, renting may be the long term reality. In the meantime, the Applicant can hopefully create a peaceful home for the children and himself in the short term with limited periods staying elsewhere (the Applicant accepted that there was accommodation he could find for such periods with the assistance and support of family). He will likewise have a lump sum in the medium term. Essentially, I am affording the parties a period of time (to completion of secondary education by the older dependent child) to make their accommodation arrangements for the medium and long term.

K. VALUE OF FORFEITED BENEFITS

This issue did not arise in this case.

L. THIRD PARTY RIGHTS

This issue did not arise in this case.

13. Having regard to the foregoing, in relation to ancillary reliefs therefore, it is my view that:

- a) The parties should have joint custody of the children;
- b) I am of the view that there is no need for primary care/access orders, rather I propose to make orders in respect of arrangements for the children pursuant to section 10(1)(f) of the 1995 Act which detail their care requirements going forward. These children need both their parents as caregivers;
- c) I am ordering a nesting arrangement substantially (the deviations are set out below) as recommended by the expert assessor but to continue for a period of shorter duration than that proposed by her. The youngest child will not finish primary school until the

summer of 2028 (which was the date for the cessation of nesting proposed by the expert assessor). I am of the view that this is simply too long a period for nesting to continue. Nesting inevitably places controls on the parties moving forward with their lives and a period of this duration would be most onerous. I am proposing that the nesting arrangement as recommended by the expert assessor continue for no longer than the completion of secondary education by the older dependent child being most likely the summer of 2026. I am aware that the Applicant is not in favour of nesting. However, the children and in particular the youngest child need to have a stable and facilitated ongoing relationship with their mother and this can best be achieved within the family home, on the basis of current circumstances. I do not believe that arrangements herein should be reviewed for at least a period of twelve months from the time these current arrangements become operative. If at such review, the Respondent has continued a road towards positive recovery, the duration of her time with the children should increase but, if this occurs, nesting should cease and the new arrangements would take place in the home of the Respondent. I am of the view, in the circumstances of this case, that it is not in the interests of the parties or the children that nesting would take place to an extent greater (being for a period other than the 9/5 day division) than the expert assessor recommends as this would involve too transient a situation for both parents.

- d) As I indicated during the hearing and it remains my view, the children should not have to contend with these changing arrangements on the cusp of Christmas. The arrangements aforementioned should commence on the 5th January 2024, a Friday, and that weekend shall be the Respondent's weekend with the children.

- e) The Christmas and holiday arrangements for the children should be as indicated in the report of the expert assessor with one alteration. The evidence of the expert assessor was that, at this time, she did not believe that the children should be in the care of the Respondent for in excess of three nights at a time. Therefore, for the next year, the holiday arrangements for the Applicant shall be as recommended by the expert assessor. The holiday arrangements for the Respondent shall consist of six periods of no more than three days duration. The holiday dates should be agreed annually by the 1st April or such other date as the parties agree. The Respondent's holiday arrangements should

not take place in a nesting context i.e. should not take place within the family home. The holiday arrangements as recommended by the expert assessor should commence in 2025 for the Respondent, on the assumption that her situation continues to make positive progress.

- f) All of the foregoing is predicated upon substance testing continuing. I am mindful of the cost of same but, for this family, such testing is a necessary. The Respondent must undergo three monthly testing for addictions commencing prior to the introduction of these arrangements. There must be no confusion in relation to such testing. The test must be for Poly Drug/Level 5 hair follicle and alcohol tests and the hair sample provided must be one which has not been subject to chemical addition/treatment. The cost of such testing is to be borne by the Respondent in circumstances in which the subsistence expenses of the children will be being largely borne by the Applicant. I am very concerned and I cannot diminish the seriousness of false testing having been previously submitted to this Court. I am also concerned that there was not a full period of testing available to me in the context of hearing this case. This can only be viewed with suspicion in circumstances in which the Respondent's being clear of consumption of drugs and alcohol is at the very kernel of this case. Therefore, the arrangements for contact between the minor children and their mother is predicated upon the ordered negative tests for drugs and alcohol being available, three months in advance. Of course, the Respondent cannot be forced to undertake such testing but it is my ruling that, absent negative test results for three months (in advance of commencement of each three month period), the arrangements for contact between the Respondent and the minor children should revert to the Order of the Circuit Family Court of the 20th December 2022. Such test results should be available prior to the commencement of the arrangements herein on the 5th January 2024 and thereafter.
- g) I am ruling that the Applicant should have an exclusive right of occupation in the family home until July 2026 or sale thereof, whichever is the later, subject only to compliance with the arrangements for contact between the children and their mother, to the extent that this judgment directs that such contact be within the family home. The Applicant should absent himself from the family home for the periods when the Respondent is having contact with the children therein. It goes without saying that the parties should respect the property during the times when they are in it. I do not intend to micro

manage the residency arrangements within the family home during the nesting period. I am satisfied from the evidence of the Respondent that this may be accommodated within the property and I urge the parties to be pragmatic, sensible and mindful of the privacy of each of them in this context.

- h) There is no doubt that there is financial disparity between the parties at the moment. The Applicant expressed the view that she would be back to work in the short to medium term. I hope that this is achieved. She will likely have rent expenses going forward. She currently has the benefit of income continuance and some level of social welfare. Her entitlements in respect of social welfare going forward (and, in particular, in relation to accommodation assistance) were somewhat opaque. If the nesting arrangement continues for one year, she will require accommodation only for herself. She will be in a position to review her situation over that period and address the accommodation requirements if she is to seek to extend her contact with the children outside the family home. The Applicant is to discharge the mortgage on the family home and all associated expenses including utilities. He is to be responsible for the subsistence expenses of the children while in his care. The Respondent should be responsible for such expenses while the children are in her care. Educational (including extra-curricular), medical, dental and therapy expenses should be borne equally by the parties. On the basis that the expenses are borne as indicated, no Order for maintenance is appropriate.
- i) The parties herein are at an age and stage where they require some finality in relation to the future. I have therefore decided that there should be an Order for sale of the family home, the property to be put on the market when the older dependent child completes second level education being most likely late June 2026 (if this is shortened or delayed for any reason the sale date should be likewise shortened or delayed to completion of secondary level education by this child). I am directing that the property be placed on the market for sale on the 1st July 2026, with liberty to apply to vary this date if the cessation of secondary school education of this child is earlier or later than envisaged. The proceeds of sale should be divided equally based upon the equity in the property at that time and on the basis that the mortgage repayments continue to be made by the Applicant until that time according to current arrangements. I considered giving a

larger portion of the proceeds to the Respondent given her weaker financial circumstances but I have concluded that this would not be reasonable given that the Respondent intends to return to work and is a talented and experienced person, the Applicant will be carrying the primary burden of maintenance for the children and the discharge of the mortgage and household expenses in the short term and he has also had legal expenses where the Respondent has been legally aided. Even with some level of recoupment of legal aid, if arising, it is likely that the legal expenses of the Applicant will significantly exceed those of the Respondent. In addition, the Respondent is a little younger than the Applicant which is relevant in terms of borrowing potential into the future. In all of the circumstances, I am also going to give the Applicant an entitlement to purchase the interest of the Respondent at the time envisaged for sale of the family home, by way of a first option. This would be based upon a payment by the Applicant to the Respondent of 50% of the then net equity (net of mortgage only NOT net of sale costs as if there is such buy out, the property will not be being sold so the Applicant's share should not be reduced by notional sale costs). This figure should be calculated based upon an agreed market value at that time and on the basis that the periodic mortgage payments have been fully discharged by the Applicant. If a valuation or valuer to provide such valuation cannot be agreed, a valuer should be nominated by the then President of the Law Society of Ireland which valuation will bind both parties. The entitlement of the Applicant to purchase the Respondent's interest in the property is also predicated on her being released from the existing mortgage contemporaneous with such purchase. If the Applicant does not avail of this first option to purchase for any reason, the Respondent will have a second option to do so on the same terms. Pending sale, the property is to continue to be held as joint tenants.

- j) Any nesting arrangement will not continue past the sale of the family home as provided for herein.

- k) It is my view that equalisation of pension retirement benefits is appropriate. I will make an Order pursuant to section 13 of the 1995 Act in respect of any spousal pension benefits arising. Death in service benefits arising should be utilised for the financial security of the dependent children during the dependency of any of the children but should cease thereafter. Formal orders should be made accordingly in the Pension

Adjustment Order List when the draft orders are ready and liberty to apply will be given in that regard.

- 1) In the context of the family home remaining as a joint tenancy in the short term (pending sale), the Order for sale thereafter, the pension orders herein and in the context that is desirable that these parties have finality in terms of the inter linking of their affairs, I will make mutual orders pursuant to section 14 and section 15A(10) of the 1995 Act.

ORDERS:

14. The parties should agree a draft order and any issue arising will be dealt with on 1st December, 2023. It would be most useful if a draft order could be submitted in advance of that date in order that any matters arising might be informed by such draft.

Indicative costs order:

15. I would indicate an intention to make no order for costs herein as the respective positions of the parties in relation to costs have been taken into account in the making of proper provision as between them. This issue, together with any other issues arising from this judgment, may be addressed before me on the 1st December 2023 at 11 am when I will list this matter for mention.