



Neutral Citation Number: [2021] EWCOP 60

IN THE COURT OF PROTECTION

Date: 12 November 2021

Before :

MR JUSTICE POOLE

Between :

Hull City Council

Applicants

- and -

(1) A by her Litigation Friend AI

(2) B

(3) C

(4) THE CCG

Respondents

Mr Batt, Solicitor, Kingston-Upon-Hull City Council Legal Department, for the Applicant
Ms Keehan (instructed by MCJ Law) for the First Respondent
The Second Respondent in person
The Third Respondent in person
Ms Sharron instructed by Beachcroft LLP for the Fourth Respondent

Hearing dates: 29 October and 2 November 2021

JUDGMENT

Mr Justice Poole :

Introduction

1. The First Respondent, A, has dementia and lacks capacity to conduct this litigation and to make decisions about her residence and care. Over recent months she has been living at home with her son, the Second Respondent. His behaviour has given rise to increasing concern causing the Local Authority to apply to the court to authorise her removal from her home and her transfer to a residential care home, at least for an interim period. That application came before me at a remotely held, private, closed hearing when sitting in Sheffield on 29 October 2021. On that day I made orders without notice to the Second Respondent, including injunctive orders to prevent him obstructing social workers from entering the First Respondent's home for the purpose of checking on her health and welfare. I next heard the case at remotely held, private, closed and open hearings, when sitting at Kingston-Upon-Hull on 2 November 2021. Following those hearings I made orders authorising the transfer of A from her home to a residential care home. Those orders were also made without notice to the Second Respondent.
2. Without notice orders of the kind I have made in this application are exceptional and I consider necessary to set out the reasons for making them in a published judgment, suitably anonymised to protect A's identity. By previous orders the proceedings have been conducted in private therefore they were not open to members of the public. Nor did any journalist or blogger attend. It is important that when the workings of the Court of Protection are carried out in such circumstances and powers are exercised of the kind I have exercised in this case, the court's processes and reasoning are at least subsequently laid open in a published judgment.

Background

3. A is a 76 year old woman living in her own home who has late-onset vascular dementia complicated with agitation, anxiety disorder and psychosis. She is a widow who has four living sons. There has been a suggestion that one of them, D, may be a donee under a Lasting Power of Attorney in relation to A's health and welfare, but he has not been located and his status as donee has not yet been confirmed. Another, the Second Respondent, B, lives with A. The Third Respondent is a granddaughter of A who was joined as a party to the proceedings to participate on behalf of the wider family; the Fourth Respondent is the local NHS Clinical Commissioning Group. AI is an Independent Mental Capacity Advocate who has previously been appointed as A's Litigation Friend.
4. The Applicant Local Authority's application, made urgently and without notice to the Second Respondent, is for a declaration that it is in A's best interests immediately to transfer residence from her home to a residential care home, with orders to give effect to that transfer, including injunctive orders against B to prevent him from obstructing the transfer.
5. The case has been transferred to me as a Tier 3 judge of the Court of Protection for consideration of this application. There have been multiple previous hearings before

the Court of Protection in recent months. To summarise the decisions of the court to date:

- i) The Local Authority applied on 30 March 2021 for declarations in relation to A's capacity and for best interest decisions to be made. The court has determined that A lacks capacity to conduct this litigation and to make decisions about her residence and care. The Court has also recorded that there is reason to believe that A lacks capacity to make decisions about contact with others.
 - ii) Initially, the Local Authority contended that it would be in A's best interests to be transferred to a residential care home (not the one now proposed) but B's proposal that he should be her primary carer at home and his assurance that he would seek professional support as needed, resulted in the court approving, as being in her best interests, a care plan that A should remain at home with B as her primary carer and with a package of support from agencies.
 - iii) As approved by the court in April 2021, A was cared for primarily by B but with significant support from carers visiting A's home at least three times a day. In the early summer of 2021 she also began attending a day centre.
 - iv) A has not been vaccinated against Covid-19. An issue arose as to whether it was in her best interests to be vaccinated. The CCG was joined as Fourth Respondent but no application has been made in relation to a best interests decision about vaccination.
 - v) Preliminary consideration of Covid-19 vaccination appears to have triggered a significant change in B's approach to engagement with carers, professionals and the court, as described below.
6. A section 49 report on the assessment of A's capacity by Dr Adebayo, Consultant Psychiatrist, dated 6 September 2021, concluded that she was unable to make decisions for herself about the conduct of litigation, residence or care because of an impairment of, or disturbance in the functioning of, her mind or brain. He reported that A was significantly cognitively impaired. She did not know her age, the day, month, or year:

“There is clearly documented evidence of a well-established progressive multi-domain cognitive impairment (with long and short term amnesia, inattention and poor registration, restricted vocabulary range, repetitive anecdotal speech theme, spatial and temporal disorientation, dyscalculia, dyspraxia) which in the face of A's significant personality changes and functional decline typify a late-onset vascular dementing condition albeit with the complicated colourations of agitations, anxiety disorder and psychosis.”

In addition A suffers from delusions. For example she has confused B with her late husband. She is highly suggestible in her thinking.

7. A has consistently expressed the wish to remain living at her home. B re-appeared in A's life relatively recently. Dr Adebayo reports that B had suffered physical abuse at the hands of his late father when a child. He had disappeared from home at the age of 15 and was treated as a missing person for five years until he made telephone contact with A. He is now in his mid-fifties. Only recently, evidence has been produced showing that B has a long history of criminal activity including multiple convictions related to cannabis, including supply. He has multiple convictions for assault. Most seriously, he received a ten year sentence of imprisonment in late 1994 for an offence of causing grievous bodily harm with intent. His most recent offence was for battery in 2010. This forensic history was not known to the court previously when it approved B being A's primary carer as being in her best interests.
8. At some point in his adult life B became a "born again Christian". He worked as a missionary in Africa. At the beginning of 2021 he indicated that he planned to return to that work in Africa. In a recent email he said that he was not a Christian but a Messianic Jew (which I understand to be a form of Christianity that incorporates elements of Judaism). According to Dr Adebayo, B was married with three children but is now divorced and estranged from his family.
9. The Court of Protection has previously repeatedly endorsed, as in A's best interests, her living at home under the primary care of B. However, apparently in response to consideration of A being vaccinated to protect her against the Covid-19 virus, B's behaviour changed in mid-August 2021. He unilaterally and immediately cancelled all care and support for A within the home and he stopped A visiting the day centre. He has stopped visitors coming into the house. He has become increasingly hostile to visits from social workers such that no professional has been permitted by him to cross the threshold of A's home since 30 September 2021. He has become abusive and agitated when social workers have attempted to visit A, shouting at them from an upstairs window, threatening to call the police, and ordering them to leave. In recent email correspondence to the Local Authority and to the Fourth Respondent, B has said:
 - i) To the Fourth Respondent on 15 October 2021,

"I will protect my mother to my own death. We don't need your interference, as I believe you will be invading my human rights as well as my mother's to live a peaceful life. Due to covid19 still being transmitted, whether vaccinated or not, I am not allowing anyone in the home."
 - ii) To the solicitor for the Local Authority, on 23 October 2021:

"Who are you to question my faith? On the day of judgement I hope you have repented of this sin. I forgive you for your judgement against me by your written word. Which is something that in your heart needs to be repented of.

...I am not a Christian I am a Messianic Jew and I follow no man made laws. I live within the laws and commandments of YHWH.

I today proclaim YHWH's word to you ... No weapon that is formed against me will prosper. And every word that is spoken

or written in judgement against me I now condemn. For this is my heritage says YHWH. For I am His servant.

I saw from day one that contact with such people as yourself would be a challenge. And I wasn't wrong. Teachers of the law actually were the ones to nail my Messiah to the tree. And now you sit there in your high little chair of authority and write judgement on a person for actively believing in me and my mother being protected by our Creator from evil."

10. Not only has B refused to permit entry to the house, but he has also refused to meet with social workers outside the house. B has refused to attend court hearings and, on being written to directly by the Judge conducting previous hearings, he has made clear his intention not to attend future hearings and that he would not engage with the court.
11. C, her parents and her siblings, have not been able to visit A in her home as a result of the decisions made by B.
12. A visit by a social worker, Ms H, and her team manager Ms M on 20 October 2021 provoked anger from B who accused them of stealing money from A. In accordance with their established practice in this case they were delivering a weekly cash amount of £140 to A at her house. A would take £10 for cigarettes and the rest would be handed to B to manage on A's behalf. On this occasion B alleged that they should have been giving £200, seemingly unaware that some utility bills are paid directly out of money allocated to A. A was seen at the doorway and the social worker asked A if she was OK. B shut the door before she could answer. She appeared to the social worker to be frightened. The social worker and team manager could hear B shouting from within the house. This visit appears to have triggered the application now before me.
13. Anxiety about B's behaviour and the impact of his conduct on A has increased as a result of further evidence that has recently emerged:
 - i) B's forensic history as already summarised.
 - ii) On 23 July 2021 A's former care provider reported they had discovered a bruise on A's arm. A advised that B had caused it. B accepted that this was the case but maintained that it was an accident. Later, when asked about the bruise by social workers, A gave differing accounts and B maintained it had occurred whilst A was making her way downstairs.
 - iii) Protection of Vulnerable People Disclosure from Humberside Police provides details of their involvement in respect of incidents of concern involving A and B in 2018 and 2019 when allegations were made that B had made threats to harm and kill A, including threats to burn down her house. C told me at the hearing on 29 October 2021 that at that time B had been staying with a man who lived next door to A.

- iv) On 4 May 2021 B contacted the police seeking assistance given A's abusive behaviours towards him, suggesting that he was struggling to cope with caring for A at that time.
14. B has prevented admission to the house to an occupational therapist who had visited to fit a bath board, to social workers, to the team manager, to carers and domestic support, and he has restricted contact between A and her solicitor, and family members including C.
15. I have no information about the whereabouts of A's son D. His views are unknown.
16. Notwithstanding the considerable concerns for A's isolation, safety, care and welfare that the evidence referred to causes, as recently as 7 October 2021 the court has approved her continuing care and residence at her home as being in her best interests. However, at that time the evidence referred to at paragraph 13 above was not known to the court.
17. Telephone contact with A by Ms H on 25 October 2021 was made. A sounded fine and spoke normally. She appeared to be healthy and clean when last seen in the doorway to her home.
18. Ms M has provided a further statement addressing a visit by Ms H and one other social worker on 28 October 2021. I refer to paragraph 17 of her first statement. It is second-hand evidence because it does not come from either of those social workers who attended A's house. On this occasion A spoke to them whilst standing in the front doorway. She appeared to be healthy and clean but she whispered to them that she did not like "him". In answer to discreet questioning she shook her head in a way that might have indicated that she did not want to continue to live with him. On this occasion B stayed largely in the background and was not abusive to the social workers. I note that in the past A has confused B with her late husband. Nevertheless, her behaviour on 28 October might be the first evidence that A does not wish to continue living with B.
19. Ms M's witness statement also addresses the possibility of 24 hour care being provided to A within her home. It can be arranged in principle but can only commence in mid November 2021 and only if a risk assessment was positive for such care being given. Hence, the option for A to be cared for within her home by others is not currently available.
20. There is a residential care home available for A from 3 November 2021. It is called Y. It is prepared to deal with her in a distressed state on arrival. A Care plan and Transition plan have been prepared and I have seen them. Provision is made for contact with B and other family members at the care home. A is not vaccinated against Covid-19 and so would have to be isolated on arrival until negative testing allowed her to use communal areas.
21. The application first heard by me on 29 October 2021 was made without notice to B. The reason for applying without notice was the perceived danger that he would react to notice by putting A at risk of harm. That is not an unreasonable supposition given his recent behaviour, but the court should only proceed in exceptional circumstances to make orders of the kind sought without notice to those affected. Given B's history and conduct, given his stated rejection of the authority and his frank disengagement from

the court process, it was my judgment on 29 October 2021 that it was likely that he would take steps to frustrate the order of the court if notice were given to him. Giving notice to B would increase the risk of harm to A. Balancing his Art 6 rights with his, and A's, Art 8 rights, the risk of B acting in a way that would be harmful to A if notice were given, and the risk that he would take action to frustrate the court's orders, I was satisfied the exceptional course of proceeding without notice to B was justified.

Legal Framework

22. I have powers under sections 15, 16, 47 and 48 of the Mental Capacity Act 2005 to make orders in this case as sought by the Local Authority including injunctive orders prohibiting B from obstructing social workers from either entering A's home to assess her safety, health and welfare, or for the purpose of transferring her to the residential care home, Y. By s.16(2), when a person lacks capacity in relation to matters concerning their welfare,

The court may—

- (a) by making an order, make the decision or decisions on P's behalf in relation to the matter or matters,

By s.16(5),

The court may make such further orders or give such directions, ... as it thinks necessary or expedient for giving effect to, or otherwise in connection with, an ordermade by it under subsection (2).

By s.17 the powers that may be exercised under s.16 extend to deciding where the person shall live. By s.47, the Court of Protection has in connection with its jurisdiction the same powers, rights, privileges and authority as the High Court. Section 48 provides for orders to be made on an interim basis.

23. By section 1 of the MCA 2005,

(5) An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.

(6) Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

24. In relation to A's best interests, I must have regard to s. 4 of the Mental Capacity Act 2005. Section 4 sets out what the court must take into account including A's wishes and feelings, beliefs and values, and the views of others, including in this case B, as to A's best interests.

Decision on 29 October 2021

25. For the reasons already stated I do not have the views of D who may have LPA. I have the views of some family members articulated through C. The Litigation Friend, expressing her views through Counsel, is neutral as to the Local Authority's application, in light of the inability to obtain of A's updated wishes and feelings. The Litigation Friend does not however support the current circumstances continuing and seeks for all alternatives to be explored. The CCG was also neutral as to the local authority's application. Although notice has not been given to B it seems clear from his conduct and communications that he would be strongly opposed to it. As best as they can be ascertained in the light of B's obstruction, A continues to wish to stay at home but her behaviour on 28 October 2021 might indicate that she does not want B to live with her. I also take into account that she has not lived in a residential care home in the past. Affected as she is by her dementia, she is likely to find a sudden move to a residential care home to be disorientating and upsetting. She is unlikely fully to understand the reasons for the transfer. She will be in a wholly unfamiliar environment – she has not visited the care home in preparation for a move there, for obvious reasons.
26. Although physical restraint of A, or intervention to prevent B from obstructing a transfer, would be used only as a last resort, there is a very real risk that restraint and intervention would be necessary. That would add to the distress likely to be caused to A. There is a real risk of a harmful incident occurring if force is needed to give effect to the transfer of A to a residential care home, or indeed to compel B to allow entry to A's home for the purpose of assessing her safety, health and welfare. The prospect, as countenanced in the plans for her transition, of A being strapped into a wheelchair to take her out of her home and into awaiting transport, against her will, whilst the police or others hold back her son is not one that sits easily with trying to meet A's best interests. There is a risk that B will become violent as he has been in the past. There is risk to the safety of all involved, including social workers and A.
27. I also note that there is no evidence, as yet, that A has suffered physical harm as a result of B's actions. There is evidence of a bruise which is of concern, but the evidence does not allow me to conclude that B caused that injury. On 7 October, only three weeks ago, the court approved A's continuing care by B at home as being in her best interests, and there is no subsequent evidence that her health has deteriorated or that she has suffered physical harm since then. The evidence does not demonstrate that B has caused A physical harm or that there is an immediate risk of physical harm to A. However, the court cannot be sanguine about A's physical health because B has obstructed any proper assessment of her over the course of the last eight to ten weeks. Further, B is controlling her life, there is evidence that he is being coercive of her and not acting in her best interests. She has not expressed any reticence about allowing others into her home, only B has done so. She has become isolated through his actions. He is also responsible for administering regular medications to A and there has been no means of verifying that he has been doing so. There are therefore justifiable, significant concerns about A's safety, health and welfare and the risk of her suffering harm if she continues in the sole care of B without the means to check on her.
28. Balancing all the factors in this case, I concluded on 29 October 2021 that matters had not yet reached the point where immediate intervention, with the authorisation of restraint if necessary, was imperative. The Y care home was only available for A from 3 November 2021, and I considered that a less restrictive course than her immediate removal from her home to Y care home should first be attempted. B had made known

his views about the authority of the court, but he had not yet been the subject of any injunctive orders. I considered the risk that not only would he refuse to comply with injunctive orders but that he would react with violence or in some other way harmful to A.

29. Weighing all the evidence and considerations in this case I was not satisfied on 29 October 2021 that it was in A's best interests then to make the orders sought by the Applicant Local Authority. There were further steps that I decided should be taken before such orders should be contemplated. B had not yet disobeyed clear orders from the court to allow social workers to enter the home. He had not therefore had an opportunity to comply with court orders that he allow welfare checks.
30. The orders I made on 29 October 2021 in A's best interests, on a without notice basis, were,
 - i) that B shall allow a health and welfare check to be conducted at A's home for up to one hour on reasonable notice without B present in the same room , and that he is prohibited from obstructing or interfering with that meeting. A penal notice was attached to the injunctive orders made.
 - ii) The without notice application shall be adjourned. Permission to LA not to inform B of the application and no other party to inform B of the application (to transfer A to a residential care home) until further order of the court.
31. The Local Authority intended to serve notice of the injunctive orders on B, and to attempt to enter A's home to assess her health and welfare on Monday 1 November 2021. The case was listed before me for a closed hearing at 10.00 am and an open hearing at 10.45 am on 2 November 2021 for the purpose of updating the court on events on 1 November. B was to be notified of the open hearing and sent a link to join the hearing at 10.45 am. There would then follow a further closed hearing to determine whether further orders should be made on the Applicant's without notice application. I drafted a short statement of reasons for the orders regarding checks on and meetings with A to be served on B together with the open order made on 29 October 2021.

Decision on 2 November 2021

32. On 2 November 2021 further evidence was received by the court. Ms M provided a statement of events since 29 October 2021. She and a colleague attended at A's home on 1 November 2021. They had with them a copy of the order of 29 October 2021 and the reasons I had set out for making that order. A answered the door and again appeared well and clean. She was happy for them to come into the house but B intervened to stop them. He told them to go away. He threatened to call the police. They offered to speak to A outside in the garden but ultimately B would not allow that to happen. They donned masks and protective clothing. They explained that they had a copy of a court order and the judge's reasons for making the order but he shut the door before they could hand them over to him. They posted them in an envelope through the letter box leaving a corner of the envelope showing on the outside. They saw that the envelope containing the papers was removed from the letter box from the inside. B then firmly told them to leave the garden at the front of the property and made comments about the court wanting to lock him up, a reference to the penal notice in the order, thus demonstrating

that he had read the papers put through the letter box. He later accepted an email sending him a link to the hearing at 10.45 on 2 November

33. Notwithstanding his previous decision not to engage with the court at all, B attended the open hearing at 10.45 am on 2 November 2021 conducted remotely. He told the court that A is well and that he ensures that she takes her daily medication. He told me that she was less paranoid and so was improving. Indeed, A has appeared well when seen briefly by others at the threshold to her home. He told me that he wants a second opinion on A's mental capacity, indicating that he does not accept that she lacks capacity to make decisions about her residence and care. The evidence from Dr Adebayo was, however, very clear and relatively recent. He is opposed to any visitors (including presumably someone who was instructed to assess capacity) entering the house because of the risk that they might spread the Covid-19 virus to him and A. He expressed the view that it was nobody else's business how he and A lived and that she was not isolated because he is with her 24 hours a day. I asked what protective measures could be taken by way of negative testing for Covid-19, mask wearing or otherwise for him to allow visitors into the home to see A for themselves in a proper manner. He became more agitated. He did not answer the question but referred to "things I have seen". I asked him the question again and he left the hearing.
34. At the court's request, Ms Bradley, legal representative for A, spoke to B by telephone after he had left the hearing. On resumption of the open hearing, Ms Keehan told the court what he had said. He told Ms Bradley that he had been disconnected from the hearing because of an internet problem but he also indicated that he was not willing to re-join because he was not being listened to. He said that when he becomes agitated it is wrongly taken as an indication that he is not coping. He wanted a different solicitor to be appointed for his mother and a re-assessment of her by other professionals. He said that he would allow someone independent into the home. He asserted that no-one respects his wishes or his mother's wishes and that is painful for both of them. He said that it is not good for him or his mother when he becomes agitated. He complained of a lack of communication between him and other parties in the case. He then ended the call.
35. A re-assessment of A's capacity or the involvement of an Independent Social Worker would take some time to arrange and would not help with the sustainability of the current arrangements and B's opposition to other visitors such as carers or social workers entering the house.
36. From his participation at the hearing today and what he told Ms Bradley as reported to me, as well as all the previous evidence in the case that was before me on 29 October 2021, I conclude that B has become implacably antagonistic to the Local Authority, social workers, the Court, and the legal representatives for A. His avowed reason for not allowing visitors into the house appears to be a fig leaf – his real reason is distrust of all those involved in this case, apparently initially triggered by consideration of A being vaccinated, not protection from Covid-19. If, as he says, he would allow an independent person to enter the house, that shows that his objection to social workers from the Local Authority entering is not due to the risk of Covid-19 transmission.
37. It was troubling to hear the agitation in B's voice as he responded to the few questions I had the opportunity to put to him at the remote open hearing on 2 November 2021. I could not see him because he said his screen was broken. However he became audibly

agitated when I sought to explore with him arrangements that would allow social workers to come into the house to assess A. His telephone conversation with Ms Bradley confirms that he was agitated because that is the description he himself used. Given the evidence of his past drug abuse and his history of violence, together with the content of his communications to the other parties' representatives, his abusive response to social workers attending, and his controlling behaviour in isolating A, it is very concerning that B appears to be struggling with maintaining his mental and/or emotional equilibrium. B is someone who is capable of causing considerable harm to others. Given B's history and his recent and current behaviour, I have deep concerns that A may be suffering and/or is at risk of suffering significant harm whilst she is under his sole care.

38. At the hearing on 29 October I was reluctant to authorise the removal of A from her home to convey her to Y. It seemed to me that B should be given the opportunity to show that he would co-operate to allow A's safety, health and welfare to be properly assessed. In fact, B has decided not to comply with my order and not to be co-operative. Although I am grateful that he joined a remote hearing, he did not do so for long, he chose not to participate further, and he did not demonstrate any intention to allow any visitors into the house or to obey court orders. B's conduct has now forced the issue – the current position is unsustainable because there are substantial grounds for concern that A may be suffering harm and/or is at risk of suffering harm under the current residence and care arrangements. B has for some weeks obstructed all attempts to check on A's safety, health and welfare to allay concerns. I am satisfied that his conduct will not change and he will continue to control access to A on his own terms, namely by preventing any meaningful contact with A inside or outside her home by the other parties to this case.
39. Firstly, I revisit the question of proceeding without notice to B. Although he knows that the court made orders on 29 October 2021 without notice to him, he still does not have notice of the application to remove A from the home and to convey her to Y. That application has continued to be heard in closed proceedings. I am satisfied following the hearing on 2 November 2021 that if he were to have notice there would be a substantial risk that he would use the time afforded to him to obstruct A's planned removal and conveyance. He would be likely to take steps to frustrate the purpose of the order. Those steps could put A at risk of harm. I am satisfied that the exceptional course of proceeding without notice to him is required in this case.
40. As to the substantive question of whether it is necessary now to take steps to remove A from B's care and to accommodate her at Y, I have to weigh all the circumstances when determining A's best interests, following the statutory provisions set out above. I have already referred to A's wishes and feelings and the views of others about her best interests. They have not changed since 29 October 2021. It is however now clear to me in the light of events since 29 October 2021, that it cannot be in A's interests to continue to be looked after by her son, given his current state of mind and his history, with no means of checking adequately on her safety, health and welfare, or her use of medication. It is also necessary to seek to ascertain her wishes and feelings which is not possible so long as B controls her contact with others in the way he has done. It is possible that B is keeping A safe and well. But it is also possible that his relationship with her and care for her is harmful to her. The court cannot know, because he has

obstructed all reasonable attempts to check on A and for her Litigation Friend and legal representatives to be able to assess her wishes and feelings and interests.

41. It would not now be realistic to force entry to carry out checks on A with a view to her remaining in the home immediately afterwards. The circumstances would not be conducive to an effective assessment of her health and welfare within the home in the immediate aftermath of removing B for the purpose of checks being carried out. After assessment there would be no carers available to provide her with care within her own home. The earliest that carers might be available to provide 24 hour care in the home is 12 November and that is subject to risk assessments. In any event B has shown himself unwilling to allow any carers to have entry to the home, so he would have to be kept out of the home. Previously he has stayed next door to A's home. He could do so again and cause difficulties for A's care in her own home. The alternative of allowing B to continue to care for A in her own home after an assessment would be fraught with risk. He would be likely to be in a very agitated state. He might well be even more likely to take steps to obstruct future access to A. The health and welfare check might confirm that A is safe and well, but it might equally reveal that she has not been well looked after by B, has come to harm, and ought to be protected from him. B's conduct on 1 November 2021 and his appearance at the hearing today have confirmed that attempting to remove B from the house in order to assess A and then to leave her in the home afterwards to be cared for by B is not now a realistic option.
42. B has been given every opportunity to work with others and the court. He stubbornly refuses to do so. The only viable option that remains for checking on A's health and welfare is to remove her from her home for an interim period to be cared for at the Y residential care home.
43. The alternative is to leave A in the care of B in her own home. I have already referred to the risks of so doing. In addition I have to take into account the risk that the process of removing A and transferring her to the care home could well be harmful to her.
44. The situation is precarious and every option is laden with risk. The decision, balancing all the competing factors, is a difficult one, but it has to be made. My concern in leaving A in the sole care of B with his history of violence and drug use, his easily triggered agitation, his hostility to social workers and other visitors to the house, his intransigent determination to isolate A and to be the only one who has contact with her, his obstruction of attempts to assess her health and wellbeing, mean that the removal of her from the home for a short period is now necessary in her best interests. Taking into account all the matters which the court must balance when considering A's best interests, I am sure that it is now in her best interests to be moved from her home to the Y residential care home for an interim period. I shall list the case before me for a review hearing approximately one week after A's transfer to the Y care home which will now take place on 3 November 2021. I shall authorise the use of restraint to ensure that A is safely conveyed to the care home, in accordance with the measures set out in the Transition plan. I shall make injunctive orders against B to seek to ensure that the transfer is carried out as peaceably and safely as possible. I shall make provision for A to have contact with B and other family members in safe circumstances, in her best interests once she is at the care home.

Addendum

45. On 3 November 2021 I was informed that A was successfully conveyed to the Y care home without the need for physical intervention or restraint to be used.