

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Date: 18th December 2019

Before :

HH Judge Raeside (Sitting as a Judge of the High Court)

Between :

NP

Applicant
Father

- and -

BR

Respondent
Mother

-and-

T

(Through her Guardian)

2nd Respondent
Child

Richard Jones (acting pro bono) (instructed by Barlow Robbins) for the Applicant Father
Paula Rhone-Adrien (instructed by Venters for the Respondent Mother
Samantha Whittam (instructed by **Atkins Hope**) for the child

Hearing dates: 12th, 13th, 17th 18th December 2019

JUDGMENT

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

HH Judge Raeside:

1. I am concerned with a little girl, T , who is 5 years old. She is the much-loved child of her Mother, BR and her Father NP. T has always lived with her Mother.
2. For almost her entire life, T has been the subject of legal proceedings between her parents. The proceedings have been about T's relationship with her Father. For 5 years the Court, Social workers and psychologists have been grappling with the problem of why that relationship has been so difficult to establish and maintain. The Children Act proceedings have been before the Magistrates, the District Bench and the High Court. T is now a Ward of Court and I am trying this case as a Section 9 judge with the authority of the Presiding Judge of the SE Circuit, Moor J.
3. All other avenues to engage and promote a good and loving relationship with the Father having failed, NP is now seeking an Order that he should be T's primary carer and that T should move to live with him. Until the 3rd day of the trial (17th December) this application was opposed by the Mother although supported by the child's Guardian. On 17th December, having heard the oral evidence of the child psychologist and the social worker, the Mother's position changed. She no longer actively opposes the Father's application.
4. It is agreed by all parties that it is necessary and sensible for me to give a written judgment, to record the evidence before the Court and to make findings of fact. Not only will it be important for the parents to read it, but it will form the basis of any future decision making if the matter comes back to Court. In addition, T may want to see it when she is older, wider family members will need to be aware of my findings, and the professionals working with the family will benefit from understanding the background.
5. In the light of the fact that the matter does not remain fully contested, the Judgment is in a somewhat shorter form than would normally be expected. I am also conscious that the judgment is needed urgently by the social work team so that they can start assessing the maternal family with a view to seeing if contact can safely take place over Christmas. I hope that the parties will forgive me for relying heavily on the opening position statements, particularly the very detailed document provided by Mr Jones.

The Background

6. The Father was born in 1962 and the Mother in 1978. The Father was married previously, he divorced after a 20 year relationship. He has 3 adult children from that relationship.
7. The parents met in about 2009, were married in 2012 and T was born in 2014. Sadly the relationship broke down shortly after that, and the parents separated in 2015. The divorce was finalised in September 2016. Matters became antagonistic in relation to contact very early on, with police and Children's Services involvement from the time of separation.

8. The Father commenced a relationship with his new partner, Ms Z, in April 2015. They are now married. They live in S.
9. The Mother lives in a close knit community in G , near her extended family, in particular near T's maternal grandmother, great-grandmother, maternal aunt and baby cousin. She has the support of close friends including Mr H, who was able to assist her in attending court.
10. The Father commenced proceedings for contact in August 2015; I note that a fact-finding was requested by the Mother but refused by the Justices (C29 where the Justices were asked to review this decision and refused to do so).
11. On 3rd March 2016 a Child Arrangements Order was made by the Justices, providing for T to spend 2 nights per fortnight with her Father, building up to 3 nights fortnightly. However, matters did not progress as anticipated when that Order was made. I note 6 police call-outs between February and June 2016 culminating in a very distressing and contentious scene at hand-over in June 2016.
12. In December 2016 the Local Authority placed T on the Child Protection Plan on the category of emotional abuse due to the relationship difficulties between the parents. T remained on that register until the summer of 2019 when she was moved to a Child in Need Plan where she remains.
13. The Father was so concerned about the impact of handovers and the disputes around contact that at one point he stated that he would not pursue his attempt to spend time with the child. However, the Father persevered. The child has been very fortunate that JC has been her social worker since December 2016 until this week – she has now moved to a different local authority. Her long connection with T and the family has proved invaluable and the Court is grateful for the social work continuity.
14. In July 2017 the Father restored the matter to Court. Mr Jones, acting for the Father, has provided the Court with a chronology of Orders which I adopt and attach to this judgment as Annex A.
15. During those proceedings (managed primarily by DJ Beck) one successful contact was arranged in September 2017 organised by the Social worker. However, the Mother would not make T available for further sessions and I note that between December 2016 and October 2017 there was only one contact arranged. This must have been heart-breaking and frustrating for NP.
16. I will consider the evidence in more detail below, but in October 2017 the SW filed a Section 7 report (C5) which recommended a psychological assessment of the parents and supervised contact to build up the relationship with the Father. In November 2017, DJ Beck joined the child as a party, permitted the instruction of an ISW to supervise contact and directed a psychological assessment of the parents. The ISW (CK) was unable to persuade T to see her Father.
17. In January 2018 the psychological report of Dr Tizzard was received. I refer to it in detail below.

18. Throughout 2018 there was little progress until in December 2018 the parties agreed that Dr Shbero should be instructed to undertake play therapy with T, at the Father's expense, with the aim of working with T to re-establish contact.
19. In spite of evidence of T suffering from emotional harm, by the spring of 2019 it had become clear that the LA was not intending to commence public law proceedings. T had started school but there was evidence that her attendance was problematic.
20. The Father recognised that since T did not have a relationship with him, any application for a change of residence would have to be supported by a bridging placement and an application for Wardship. The Father's application for the child to live with him and the Wardship application were heard by Moor J on 20th March 2019 and thereafter transferred to me to be heard as a Section 9 Judge.
21. In April 2019 a schedule of direct and indirect contact was agreed by the parties (supported by Dr Shbero). A transition plan was directed to be filed.
22. By June there had been some limited progress in re-establishing the relationship between T and her Father. Alternate weekend contact had commenced. By September, a final report had been filed from Dr Shbero as well as a Transition plan. Directions were given for trial.

The Issues before the Court:-

23. The issues before the Court are firstly, whether T should move to live with her Father; secondly, if she does move, the level of contact between T and her Mother, the need for supervision of that contact and whether there are any family members who would be safe to supervise the contact, particularly over Christmas. The LA has stated that it would supervise contact for 8 weeks and then review the situation, but there is an urgency to considering supervision by others over Christmas.

The Case for Each Party:-

24. The Father's case is that the Mother has shown herself unable or unwilling to promote his relationship with T; although recognising that there has been some progress recently, he does not believe that this is long-lasting and fears that when the pressure of proceedings is removed, the situation will revert to his relationship being undermined. The father relies on the expert view of Dr Shbero, Dr Tizzard and the Social worker (as well as the child's Guardian) that T is suffering harm by being denied a relationship with him and by the Mother portraying him in a negative light. The Father feels that he has no choice now but to seek a change of residence, whilst recognising the short term struggle for T that this will cause.
25. The Mother's case (until mid trial) was that she had made significant progress in addressing the issues identified by Dr Tizzard as being problematic in her

psychological make-up; that contact was taking place, and that she would be able to promote the paternal relationship. The expert evidence of Dr Shbero was challenged. T's close and loving bond with her Mother and wider maternal family was highlighted.

26. The Guardian supported the case put forward by the Father.
27. The Mother's decision not to oppose the application must have been the hardest one that she has ever made. I commend her for it, it is a child-centred decision and one which shows that she is beginning to recognise the problems of the past. In the light of her concession, it became vital that a new Social worker was appointed to assist in matters of contact and transition and eventually (and I am grateful to the LA for this) the parties were assisted by Mr MG and his team manager Ms TL who attended Court on the afternoon of Tuesday 17th December.

The Evidence:-

28. I have read the bundles of documents, the expert reports, the parties' witness statements and all the documents that they have exhibited. I heard the oral evidence of Dr Shbero on 12th December and Ms C the SW on 13th December, the Children's Guardian on 18th December and the Father on 18th December. In the light of the Mother's brave decision not to contest the application, there was no need to hear oral evidence from the parents, save from the Father with respect to when T should change school.

I turn to look at the evidence in more detail.

29. Dr Tizzard is a chartered consultant psychologist and was instructed in late 2017 to examine the parents. Her evidence has not been challenged. I quote below from the Opening filed on behalf of the Father:-
30. "The court is referred to this report dated 23 January 2018. With respect to Father the report found that he was not showing any symptoms associated with mental health but did observe that he is *"beginning to display signs of palpable anxiety as a result of his distress regarding lack of contact with his daughter and the feelings of powerlessness and helplessness that arise from that situation"* (para 2.3) [C144]
31. The report had much more serious observations as to Mother including:
 - a. *"the results of the psychometric protocol revealed that BR displays the histrionic prototype to clinical levels and to an extent that the protocol states would impact on every day function. This would influence moods, interactions and negotiations with others and become particularly marked when she is under stress"* [C74]
And also
 - b. *"I am of the view that T has assimilated her mother's distress and is beginning to display a palpable anxiety towards her father as a result of this. T's issues would be ameliorated as a result of positive contact with her father. . . . For any lasting change*

to occur BR needs to be able to encourage positive contact with NP. However, her personality traits. . . make this a difficult process to achieve” (para 2.9) [C145]

32. The report made a number of recommendations but the primary one was that contact between T and Father ought be prioritised [C145 para 2.10] and also (in summary) for Mother to undergo up to 6 sessions of solution focused integrative therapy with a consultant adult, adolescent and child psychologist to explain how her actions and current thought processes are impacting on T’s welfare.
33. Dr Tizzard diagnosed a histrionic prototype, a compulsive prototype and a narcissistic prototype:-

“The culmination of each of these traits is likely to make interactions and communications difficult and will give rise to very difficult and problematic behaviour when challenged. Significantly, these traits tend to produce a personality convinced of the cerititude (sic) of their own opinion. When distress levels rise individuals with the histrionic prototype tend to fragment giving rise to very significant outbursts [4.91]...I am of the opinion that BR is a somewhat vulnerable individual whose anxiety is overlaid by the development of three very specific traits that have the potential to cause a large degree of difficulty in personal relationships and particularly so when these relationships become challenging [4.93].

5.7 -5.13: It is correct to state that BR evidences a practical high level of care for T and wishes to be a good mother. BR was however unable to think of any possible benefits that NP could bring to his daughter’s life. This quite unusual and demonstrates a rigidity of opinion...I formed the opinion that BR, while wanting and seeking the best outcome for her daughter, firmly believes that contact with the Father is not in the child’s best interests....It is also relevant and pertinent to state that BR’s extremely strong and voiced feelings would be assimilated by T, whether or not BR had directly voiced these opinions to the child. BR’s general countenance and body language when discussing NP are indicative of hostility and anxiety. In fact, it is difficult to extrapolate exactly which is the greatest difficulty. It is quite certain that T having witnessed her mother in an emotionally histrionic and heightened state, would naturally begin to express some fear of her father while wondering what she was frightened of. It is therefore appropriate to state that T would be displaying significant anxiety at one level which may account for the ambivalence towards NP that she is displaying. Unless this is addressed there is a likely probability of T developing an ambivalent attachment to her Father and suffering irretrievable emotional harm.

At 5.17: I am of the opinion that BR requires a period of integrative counselling provided by a consultant psychologist to help her understand how her presentation is causing the child psychological distress and as such may be considered a form of emotional abuse although this would be extremely upsetting for BR to hear as it is clear she loves her daughter.”

34. The Social Work evidence. Ms C has been the Social Worker since December 2016. She has prepared a number of documents including Section 7 reports, parenting assessments of both parents and the Transition plan.
35. In the Section 7 report filed in March 2018, Ms C said this:

“BR’s clear opposition to T having contact and therefore a relationship with her Father seen in the contact of Dr Tizzard’s report, raises the question if T should remain living with her mother. . . Should BR however resist this and not show a different attitude and decision making regarding T, it will not be in T’s best interest to remain in her mother’s care”

36. Ms C was able to read the updating evidence before she came to Court to give oral evidence. I found her evidence to be helpful and fair. She is the professional who has been involved in the family for the longest, and I accept her opinions on the best outcome for T.
37. In her oral evidence Ms C stated that T was suffering from emotional harm, and that this had become clear to her over time as Ms C continued to work with the family. Ms C was concerned that the emotional harm T was suffering was impacting on her ability to engage at school.
38. In oral evidence she acknowledged the progress made by BR in her therapy. However, Ms C expressed the clear concern that BR was still struggling in developing insight into how her behaviour impacts on T. Ms C pointed out that the Mother had undergone a course of therapy earlier in these proceedings and stated that she had changed; however, that change was not evidenced in any of her behaviours. The Mother had failed to commit to contact on many occasions, and the therapy must be able to achieve changes in behaviour.
39. Ms C told the Court that she had explained to the Mother on numerous occasions how harmful it would be for T not having a relationship with her father, how she may feel rejected or resentful with low self esteem.
40. Ms C reported that she had witnessed T in play talking about wanting to destroy or crush the Father, as witnessed by Dr Shbero. She spoke of T acting very aggressively towards the ‘Doll Daddy’ wanting to stamp on him, showing the child and Mummy doll standing on his face, mummy stamping on Daddy. She has been working with T about understanding that it is ok to see both Mummy and Daddy, to be happy seeing both parents.
41. She also said that her recent information from school was that when the Father brought the child to school, she would say goodbye, take off her coat and sit down. When the Mother brought in the child, the parting would be protracted and T would take a long time to settle, on occasion crying loudly in a way that was disruptive for the other children.
42. The Social Worker supported the Father’s application. She accepted that her view had shifted over the time that she worked with the family. Initially she had been of the view that the emotional impact of moving the child’s primary carer would be too stressful and upsetting for T. However, her view had shifted over time and after she saw the other professional reports. She did not think that it was possible to have a shared care arrangement between the parents, T needs to know where her primary home was. Until the Mother has undergone therapy, it was the view of the SW that it would be very hard for the Mother to be able to communicate to T that her relationship with her Father was positive.

43. Ms C was clear that contact to the Mother needed to be supervised for the time being. She would be looking for the Mother to engage with therapy and to be able to evidence that it had made a difference to her approach, before contact could move beyond supervision. She said that any family member who was put forward to supervise, would have to be subject to an assessment to ensure that they accepted the judgment of the Court and could protect T from any adverse conversations or behaviour.
44. Ms C informed the Court that T takes some time to open up to new people and to engage with them and that she can be guarded towards professionals. She recommended that contact with the Mother should be activity based and busy.
45. Ms C had met some of the maternal family; the maternal grandmother has a close relationship with T and had expressed the view to Ms C that T should not be seeing her Father. However, she was able to assist Ms C with a contact visit and put her own feelings to one side for that occasion.
46. I found the evidence of Ms C invaluable, insightful and sensitive. I accept her evidence and agree with her opinions.
47. Dr Shbero is the clinical psychologist who was originally instructed to carry out play therapy with a view to re-commencing contact between T and her Father, and who was then asked to carry out an assessment of T's behaviour and levels of anxiety, her current support and therapeutic needs and her optimal contact and care options in the short and long term.
48. Her report in respect of the therapeutic work she carried out is found at C182 entitled Clinical Psychology Therapy update dated 26th February 2019; at C189 is an email from her dated 15th March 2019 (in which she noted that '*the tricky bit is that it is not about T having therapy, its about BR's ability to manage a stressful situation*'); an email dated 20th March 2019 at C208 setting out the Mother's inability to take control of parenting T rather than allowing T to take control of a situation; C259 Clinical Update dated 12th April 2019 (in which she reported on the first contact sessions) and made recommendations for future sessions; Her main report is at C281 of the bundle dated 13th September 2019, and she provided an email dated 26/9/19 (page ref?) which commented on the recent Educational Psychologist report on T (C370).
49. Dr Shbero has been fundamental to the progress that has been made in this case. She has been the person who slowly worked with T to re-introduce her Father to her, who introduced direct contact and who has worked with both parents to re-establish the relationship between T and her father. Her evidence as to the way forward is clearly critical. Her report makes stark reading:-

“ [10.59] *The optimal care and contact arrangements....are as follows:*

[10.60] In the long term, NP would be more ideally suited as the primary carer to provide a stable home without conflict or violence. NP has demonstrated that he understands the importance of T having a relationship with both himself and BR and would be able to manage the handovers without causing distress to T.

[10.61] *As a primary caregiver, NP will be able to build a positive relationship with T, based on a secure attachment of him being present both physically and emotionally and attuned to T's needs. He is able to put T's needs before his own so that T learns that she can rely on him for her dependency needs. T will also learn that she can accept positive feelings from him without anxiety that she is being disloyal to her mother.*

[10.62] *In the long term, T would benefit from contact with BR every other weekend and alternate Fridays after school. During the week would be too disruptive to T's schooling and emotional well-being and increase the risk of parental alienation. This risk would decrease as contact with NP increases. It is important for T to have contact with BR to maintain the relationship, while being mindful of the impact of the interactions on T.*

[10.63] *If BR was to undergo long term therapy, the contact with her could increase, but there would need to be clear evidence that she genuinely had insight into her interactions with T and T's attachment needs. There would also need to be evidence that she had not made false allegations or attempted to undermine NP as being the primary carer....*

[10.65] *In the short term, BR would struggle with a gradual increase in contact and this would likely cause greater distress and confusion to T....*

[10.66] *In the short term, supervised contact may be considered as an option to ensure that BR isn't sharing her views about NP with T and in turn sabotaging the move."*

50. Dr Shbero observed that T is more anxious with her Mother than with her Father [10.6] and she noted that T appeared 'torn' between the 'two dens'. Dr Shbero opined: "*This anxiety is not about seeing NP, it is because of the pressure she feels to help her mum 'crush her dad' which conflicts with her own experience that she is building while in his care*" [10.16]. Further that "*The behaviour and anxieties that T present are within the context of two things (1) T's relationship and attachment with her mother (2) BR's difficulties supporting contact with NP.*" [10.17]
51. Dr Shbero's report makes essential reading for anyone considering this case further, and for professionals who are making decisions for T. She sets out the impact on T of the Mother not always being emotionally available to T [10.20], and T having to use avoidant strategies; she notes that T's stories are 'histrionic' reflecting the Mother's personality traits [10.20]; she notes the impact of this on her development, self esteem and her peer relationships and the learnt behaviour giving rise to aggressive and unkind behaviour. '*T is likely to be wanting the one-to-one support at school because she is craving for the attention that is so inconsistent at home.*' [10.21]
52. At paragraphs 10.22 et seq Dr Shbero sets out the Mother's attitude to contact and her inability to see any positive benefit in the relationship with the Father. She likens T seeing her Father as like an adoptive child seeing her birth family; she doesn't think that T should have a relationship with her Father. Dr Shbero says "*Unfortunately, while T is in her mother's care, she will never be able to say she would like to spend time with NP as this will be a betrayal to her mother.*" [10.24] "*If the Court was to decide that T should remain in the care of BR, these anxieties will only be ameliorated by her not having a relationship or contact with NP. This will, however, introduce other emotional difficulties. T will feel abandoned and rejected and the prognosis for her long term mental health would not be positive. There is also a possibility that this would impact negatively on T's relationship with BR in later life.*" [10.27]

53. At 10.42 et seq, Dr Shbero analyses the Mother's capacity to change. She considers that this is limited and probably outside T's time scales. Long term therapy is needed for BR to address her issues, and meanwhile the Mother would be continuing to alienate T from her Father "*because dads aren't needed*". The prognosis for T is one of "significant mental health and identity problems for T" if she were to enjoy being at her Father's whilst being told that she is not permitted to do so. [10.46]
54. In giving oral evidence, Dr Shbero was a thoughtful and measured witness. She considered that T moving would be traumatic but not traumatising, that she will be upset and will need comforting but with support she can be helped through this.
55. Dr Shbero made it clear that in her view (historically) T has been receiving inconsistent empathy from her mother which has impacted on her attachment to her Mother. This will have a negative impact on her ability to form relationships and can be damaging in the long term to her mental health.
56. Currently, she has not been given 'permission' to have a relationship with her Father, and this is reflected in the violent play ('crush her dad'). As to the future, it is Dr Shbero's opinion that if T stayed with her Mother she would not have a relationship with the Father which would be harmful for her sense of identity and well-being. The Mother could not give Dr Shbero any reason why contact would be in T's interests and it would not be prioritised or promoted. She made it clear that contact would need to be supervised because of the verbal and non verbal behaviour of the Mother which would pass on these messages to T.
57. Dr Shbero has seen the Educational psychologist's report (C370) which outlines some of the difficulties that T has at school in joining in. Dr Shbero's opinion was that she would have a better idea than someone who has observed for a day; and that Dr Shbero was of the view that these behaviours are based on attachment difficulties and the emotional harm that the child had suffered, rather than her being on the autistic spectrum. She pointed out that T has great imaginative play which contra-indicates autism.
58. Dr Shbero was asked about the therapy undertaken by the Mother and notes the Mother's engagement, but has not seen any change in insight or in attitude, based on the Mother's witness statements.
59. I found Dr Shbero's evidence to be clear and balanced and well-reasoned. She has based her opinions on extensive work with the parents and T and on a number of different diagnostic tools and techniques. I accept her evidence.
60. The Father and the Guardian gave brief evidence in relation to an issue which arose at the end of the hearing over the timing of a school change. I will consider that at the end of this judgment.

Other Evidence:-

61. I note that BR has been engaging in therapy, and it is to her credit that she has done so. I have read a letter from Dr MO at C181 as to her engagement in late 2018 based on Dr Tizzard's report; and I also notice the update provided by Dr MO in a letter dated 12th December 2019 in respect of work which recommenced in November 2019. Although Dr Morton has clearly seen Dr Tizzard's report and some of the evidence produced by Dr Shbero, it is not clear whether Dr MO is aware of all the background to the case. What is positive is that BR has chosen to engage well and that:-
"[BR] is able to recognise that T has fun, happy times when in the care of her father...in addition, she can now conceptualise that her daughter might have a different relationship with [the father] than the one she has. I think this is an important and healthy change from where we were 1 year ago."
 This clearly bodes well for the future, although as emphasised by Dr Shbero and Ms C, there needs to be evidence of this being translated into positive action.
62. I also note the document from the Educational Psychologist [C370] who has carried out some preliminary assessment work on whether T is on the autistic spectrum. The Father (who has 2 older children with autism) is strongly of the view that this is unlikely; the Mother is, I believe, more concerned along with the school.
63. I have also read the evidence filed by the parents. They have attached photographs and other documents to their witness evidence. In the event, I did not need to hear evidence from either parent, save as set out below in relation to schooling. I am struck, reading the witness evidence, by how deeply and completely both parents love their delightful daughter and want the best for her.
64. I think that it is important to record here the statement read out to the Court from each parent during this hearing. Firstly, this is what the Mother said when she informed the Court that she was not going to contest the Father's application:-

'Mother does not consent, nor does she oppose T's residence transferring to the Father. However, she will continue to work towards a shared care arrangement in the foreseeable future. Mother understands that to start with, T will spend most of her time with her Father, but hopes with time this can move to a 50/50 arrangement. The Mother intends to comply with any order of the court; she will continue with her therapy and work with social services to provide the most positive outcome for T, who she loves dearly and only wants to achieve the best for.'

65. I have said in Court and I repeat here, that this is a child-centred, courageous move by the Mother which must have been very difficult for her. It gives me hope however for the future. By this action and these words the Mother recognises the problem for T in not having a relationship with her Father, and this is the first step in being able to tackle this problem. It shows considerable insight. I commend her for this step.
66. In response, the Father wished the Court to hear the following words:-

Father wishes to draw a line in the sand, for there to be a fresh start with T living with him. Father wishes to move forward and recognises the position Mother is

currently in. Father is not against Mother. This is about T's future and they need to secure that for her. It is hoped that Mother will engage with therapy. Father is committed to T's right to have a safe relationship with both parents.

67. I am grateful to NP for these words and for the reassurance that he will continue to promote the relationship between T and her Mother. As I said in Court, he has been through 'hell', lesser men would have given up the fight for a relationship, he has seen what it is like to be denied a relationship with his child, and it is very impressive that he is determined not to inflict that on the Mother. It is a mature and child-centred approach.

Findings of Fact:-

68. I am grateful to Ms Rhone-Adrien and Mr Jones who, in order to assist the Court, have narrowed the issues in relation to the findings that are needed in this case. It is now agreed that I should make findings as follows:-

- a) That T's relationship with Father has not been consistently promoted by Mother
- b) That Mother is not in a position to promote a positive relationship between T and Father
- c) That Mother has alienated T from her Father [C354 para 10:46]

I accept and adopt those findings which are clearly made out by the evidence that is before the Court.

69. In relation to further findings I find as follows:-

- d) That T has suffered and continues to suffer emotional harm from living with her Mother for denying her a positive paternal relationship. This is the opinion of the professionals in the case (SW, Dr Shbero, the Guardian) and I accept it.
- e) That historically the Mother has provided T with an extremely negative picture of her Father which T now acts out in play. This was evidenced by Dr Shbero and the Social worker, both of whom had seen this and heard T's violent games directed at the 'daddy' toy.
- f) That Mother has and continues to minimise the role of Father in T's life. I base this finding on the clear evidence of the SW and Dr Shbero that in spite of the therapy undertaken by the Mother, she has not yet been able to demonstrate or evidence any actual change of approach. The Guardian's report, dated 12th December 2019 at para 9.10 reports that the Mother struggled to articulate any positives for T in having a relationship with her Father. Sadly, in spite of the work and the professional input, BR has some way to go before this deep-rooted mind-set can be varied.
- g) That on the evidence, the Father is better able to promote a relationship between T and her Mother than the Mother can promote a relationship between T and her Father. There has been a parenting assessment of the Father and numerous other experts have interviewed him. He has consistently said that, provided it is safe for T, he will promote a relationship with T's mother. He repeated that in court. Neither I, nor any of the other professionals, have been given any reason to doubt this. Unfortunately, there is clear evidence that the Mother cannot promote the relationship with the Father at this time.

f) I find that T has been the subject of proceedings and interventions and assessments for most of her short life, and that she needs a period of stability and calm and freedom from litigation and expert analysis in so far as is possible. This, it seems to me, is self-evident. I am not an expert in autism, but I agree with Dr Shbero that there are probably other important factors operating on T which may explain her behaviours apart from a diagnosis of autism. My suggestion is that the parents should be led by the school and social worker in due course as to whether there is a need for any further assessment of T's educational or social/emotional needs.

The Law

70. My decision is governed by T's welfare needs which are paramount. I am also aware of the right to a family life set out in Article 8 of the Human Rights Convention. I must consider the no order principle (not appropriate here) and the need to avoid delay. It is a matter of huge regret to me that NP has had to battle through the Courts since 2016 in order to reach the position that we now find ourselves in. It is an indictment on the court system. I also remind myself of the presumption (at section 2A of the Children Act 1989) that the involvement of both parents in the life of the child will further the welfare of that child. That is an important matter on the facts of this case.

71. Mr Jones has helpfully set out the important authorities in relation to alienation: I will attach his note at Annex B to this judgment; I accept his summary of the law.

72. I turn now to consider the welfare Checklist:

(a)the ascertainable wishes and feelings of the child concerned (considered in the light of her age and understanding); T is too young to have these wishes and feelings sought in respect of the matters in issue in this case. The Guardian has been sensitively conscious of the number of professionals involved in T's world and has not sought to build a specific relationship with her. He notes the loving and close and warm interaction between the Mother and daughter.

(b)her physical, emotional and educational needs; There is no doubt that her physical needs are currently being met. Her emotional needs are not being met by her Mother. I am concerned at the evidence (summarised by the Guardian at section 8 of his report) about T's non engagement at school, her unusual interaction and her behaviour at separating from her Mother. I note Dr Shbero's opinion that this is more likely to be due to her attachment issues than to a possible diagnosis of autism.

(c)the likely effect on her of any change in her circumstances; I do not underestimate the difficulty for a 5 year old child of having to leave the Mother who has been her primary carer all her life, to move to a home with a parent whom she knows far less well and who is probably less attuned to her needs. In the short term, I do not doubt that T will struggle and will be confused and upset by the change. However, I agree

with the view of the professionals that she will not find this traumatising if it is handled sensitively: the Mother's change of position not to oppose the move is important because I believe she will now be better able to support the new situation. I have read a great deal about the Father: he has 3 older children and has complied with all that has been asked of him by professionals. He has displayed patience and sensitivity in this case. I have no doubt that he will be able to support T at this difficult time and that her upset will be short lived.

(d)her age, sex, background and any characteristics of hers which the court considers relevant; These have been discussed elsewhere.

(e)any harm which she has suffered or is at risk of suffering; T has suffered emotional harm in the care of her Mother and has continued to suffer up to the date of trial. I accept the evidence that she would to suffer such harm in the future if the current situation was allowed to continue. The harm in this case is T being denied a relationship with her Father and the denigration of the Father in T's eyes.

There is a risk of trauma if the change of primary carer is not handled sensitively.

There is a risk of harm to T if she is not able to maintain a relationship with her Mother: BR must persist in meaningful therapy to address the issues outlined by Dr Tizzard in particular.

(f)how capable each of her parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting her needs; I have considered this elsewhere. Both parents love their daughter. Both are able to meet her physical needs. Both have loving homes and a wide, supportive family. Sadly, the Mother is unable to meet T's emotional needs at present. All the evidence points to the Father being able to meet all her needs, physical and emotional.

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

73. When considering which powers to exercise, it is useful to consider a balancing exercise of the advantages and disadvantages of each of the realistic options open to the Court. The Guardian has carried out this exercise in paragraphs 13 and 14 of his report (C583 et seq). He has considered the advantages and disadvantages of a shared care arrangement; whilst noting the advantage to T if such an arrangement could be facilitated, he has noted the professional view that BR would be unlikely to be able to promote or maintain a relationship between T and her Father, to the detriment of T's well-being.

74. In relation to a move to NP, the Guardian notes the short term risk of harm that this move could trigger for T. He notes the number of changes that T will have

to undergo: moving house, school, leaving close family and community. He balances this against the likelihood and chance that T will grow up with a positive relationship with both her parents and the fact that T will be removed from the ongoing emotional abuse outlined by Dr Shbero.

75. In view of the pressure for this judgment to be shared with the new social worker, I will not carry out my own analysis of the advantages and disadvantages of each realistic option. I accept the full analysis set out by the Guardian, and I adopt it.
76. I also, agree and adopt the professional opinion of the Guardian, the Social worker and Dr Shbero that T's welfare is best met by a transfer of care to her Father. The current situation of T suffering from emotional harm cannot continue, it is very dangerous for T in the long term. Although it is to be hoped that BR will undergo meaningful therapy and that there can be a move towards generous contact or shared care, it is not realistic for T to wait longer for that to occur. BR has been aware, since 2016 that NP was not going to abandon T, and it is a huge shame that it is only fairly recently that BR has engaged in further therapy.
77. The Transition Plan: it is to the credit of the parties that they have been able to agree the Transition plan in principle which is attached to this judgment as Annex C. I am very grateful to G Children's Services who, after some increasingly desperate communication from the advocates and the Court, was able to appoint a new social worker for T. Mr MG and his manager Ms TL were able to attend Court towards the end of the hearing and assist the parties with the work to be done in the coming weeks to ensure that T and the family are supported. It is agreed that Mr MG will be given an early draft of this judgment and will be meeting T at school on Thursday 19th December to tell her the outcome of the hearing. The parents will clearly need support in the immediate future, and it is reassuring to hear that a family support worker will be appointed to assist.
78. It is agreed that this judgment will be shared with family members who may be able to assist with supervising contact between the Mother and T over Christmas/New year. It is important that whoever supervises understands and accepts the reasons for the transfer of residence, recognises the emotional harm that would be caused to T if she were to witness or experience any communications (verbal or non verbal) which sought to undermine the change of residence and the importance of the Father (and his family) in T's life.
79. I am grateful to the parties for agreeing arrangements for Christmas day, subject to the supervision requirement set out above. It has been suggested that contact should take place away from the Mother's home and should be busy and activity

based. I am sure that this can be achieved on Christmas day (which is also the Mother's birthday).

80. A final issue arose on the last day of the hearing relating to the time frame for T to move schools. The Mother sought a prohibited steps order that the father should not move T until at least the end of the Easter term. The father opposed this and had always planned for T to start at a school local to him after Christmas.
81. I agreed to hear brief evidence on that point, and I heard from the Father and from the Guardian.
82. In short, the Guardian recommended a gradual change of school for T; conscious of the numerous changes in her life, he thought that the stability of school was important. He recommended a phased introduction and move during the Easter term, with the schools being able to consult and with T being able to visit and build up to a move. The Mother stressed the fact that T had a good friend at the current school.
83. The Father gave evidence that by keeping T at her current school, T would be in a journey of up to an hour each way and it would be a 4 hour round trip for him. He pointed out the financial burden of debt to friends and family that he had built up during these proceedings and the need to work as much as possible to make ends meet (he is self employed, running his own business). Whilst happy to prioritise T, he was very anxious not to lose those hours in travel. He was also of the firm view that T would cope with the change, and that it would be a fresh start for her.
84. I informed the parties that I would permit an immediate change of school. Whilst conscious of all the facts put forward by the Guardian, and accepting that in the normal run of things a child will do better if change is introduced gradually (especially where, as here, there are other important changes to contend with), this case has particular facts. I accept the evidence of the father of the pressure on his work of a long commute. I accept that 2 hours a day commute for T is not ideal. I accept that T's relationships with staff and peers at her current school do not appear to be deep and lasting (save for one friend); I am of the view that the change of school will send a clear signal to T that things are different now – a new home, new school, new beginnings. In the light of the history of this case and T's issues at her current school, I consider that an immediate move will be beneficial to her welfare. I think that it will be healthy for her to be at a school without all the history and emotional 'baggage' that she has left behind. I am heartened that the new school is aware of some of the behaviours that T has displayed and of the sensitive situation for T, and is offering the help of a counsellor to assist.
85. This judgment is being sent out in what is, I regret, very much a draft form. I am very keen that the Social worker should be able to read it and to share it with those (at school or in the family) who need to see it.
86. The Order will discharge the wardship, make a Child Arrangements order directing that the child should live with the Father with such contact to the

Mother as may be agreed in consultation, in the first instance, with Children's services in Surrey. It should reflect the need for supervision and review as set out in the transition plan. There will be liberty to apply for 3 months.

87. I wish the family well for the future and hope that they can now move forward on a more positive note.
88. I am particularly grateful to Mr Jones and his instructing solicitor Ms Beverley Cullis for conducting this case pro bono on behalf of the Father.
89. I would be grateful if counsel could please provide comments on the draft by 6th January 2020 by email (copying in all parties) and a clean final version will be handed down then. For the avoidance of doubt, the time for appealing this Judgment and Order will commence on 19th December 2019.

HH Judge Raeside
Guildford
18th December 2019
Final Version dated 22nd January 2020

SCHEDULE OF ORDERS

Date of order	Venue/ Judge	Order	Page Ref
---------------	-----------------	-------	----------

<p>3rd March 2016</p>	<p>Guildford Lay Justices</p>	<p>FINAL CHILD ARRANGEMENT ORDER</p> <ul style="list-style-type: none"> - UNDERTAKINGS GIVEN BY M at B33- B34 <p>RECITALS</p> <ul style="list-style-type: none"> - Communication book to travel with T, detailing welfare, no derogatory comments - Agreed that holidays, including Christmas day, will be split equally. F agreeing to M spending one block of 7 nights consecutively with E in summer 2016. - T's birthday to be split equally, handover to be at 1pm and morning/ afternoon alternated each year. - Mother's Day 2016 T picked up from M's house at 11:30am not 9:30am, thereafter at 3.30pm on M's week (week 1) - Father's day F shall pick T up at 9:30am on F's week, week 2. - Each party to care for E should the other party be ill. - Significant welfare decision should be a joint decision as both parties have PR/ <p>ORDERS:</p> <ol style="list-style-type: none"> 1. T shall live with F: <ol style="list-style-type: none"> a. every Sunday 9:30am- Tuesday 15:30pm, b. commencing January 2017: week 1: Sunday 9:30am- Wednesday 8:30am and week 2: Sunday 15:00pm to Wednesday 8:30am, c. for seven consecutive days and nights in summer 2016 from Friday 9:30am until the following Friday 9:30am, whereupon the arrangement for Sunday mornings shall continue d. for Christmas 2016, from Sunday 25th December 2016 from 1pm until Thursday 29th December 15:30pm, whereupon the arrangement for Sunday mornings shall continue e. such further times as agreed between the parties 2. T shall live with mother at all other times 	<p>Other Applications Bundle B29- 32</p>
--------------------------------------	-----------------------------------	---	--

<p>6th September 2016</p>	<p>HHJ Raeside Guildford</p>	<p>CHILD ARRANGEMENT ORDER AND PROHIBITED STEPS</p> <p>RECITAL</p> <ul style="list-style-type: none"> - F stating M has registered T at a nursery without his consent - F stating that he has registered T at a nursery without M's consent - M informing solicitor that T currently has a high temperature - The court urging the parents to take a child centred approach, and resolved differences by mediation <p>ORDERED</p> <ol style="list-style-type: none"> 1. T to spend 7 consecutive nights with F commencing Sunday 11th September 2016 at 5:30pm until Sunday 18th September at 5:30pm. F picks up from M's on 11th and M picks up from F's on the 18th. 2. Normal routine shall re-commence 3. s] from Sunday 25th September 2016. 4. F is prohibited from allowing T to attend nursery or other childcare facilities on the days T lives with him whilst she is under the age of 3. 5. The parents have shared PR, big decision should not be decided unilaterally. Parents should keep one another informed if E is unwell. 6. Other disputes should be solved first by mediation, failure to do so without good reasons ay result in costs orders. 	<p>Other Applications Bundle B77- B78</p>
--	--------------------------------------	--	---

<p>20th July 2017</p>	<p>Guildford/ Magistrates</p>	<p>CHILD ARRANGEMENT ORDER RECITALS</p> <ul style="list-style-type: none"> - F inviting the court to consider a Section 37, the Court considering a Section 7 more appropriate. - The CAFCASS officer speaking to the parties, recommending contact order and T be permitted to see the social worker alone - M agreeing the CAO in line with the recommendation for the purpose of facilitating the report - F inviting M to consider contact between F and T on the week commencing 28th August 2017 T's birthday, M not considering it appropriate - F wishing to record that in the event LA suspends contact, an urgent hearing will be sought - This CAO shall prevail over previous orders <p>ORDERS M must make sure T spends time with or has contact with F:</p> <ol style="list-style-type: none"> 1. Weekly for 1.5hours, not including travel time or handovers 2. Contact shall be supervised by children's services, contact centre staff and notes of each session shall be provided to each parent's solicitor and served on the Section 7 report author within 7 days of contact, 3. Contact shall be arranged and funding by the LA, 4. Handovers shall be facilitated by the LA or contact centre staff, 5. LA shall write to the court and the parties solicitors in the event that they take the view that contact is in not in E's best interest and shall suspend contact in the circumstances <p>POLICE DISCLOSURE Disclosure by 31st August 2017, to F's solicitors, any statements, interview tapes/ transcript, incident logs or photographs relating to any incidents involving the parties that took place between January 2015 to date.</p> <ul style="list-style-type: none"> - Chief constable must inform the court about any material being withheld or edited for reasons of confidentiality. The order must be served on the chief constable immediately by the F's solicitors together with details of the parties full names, DOB and last known address. 	<p>Other Applications Bundle B79- B83</p>
--------------------------------------	-----------------------------------	--	---

- Any fee charged by the Chief constable shared in equal parts between the parties
- CC may apply in 7 days to vary the order
- F's solicitors shall share disclosure on M's solicitors upon receipt.

MEDICAL DISCLOSURE

Each parent shall by 4pm on 31st August 2017 obtain and disclosure to the other a letter from their GP about current concerns regarding their mental health. Each party shall bear the costs of obtaining their own letter.

SECTION 7 REPORTS

G children's services shall by 4:00pm on 12th October 2017 send to the court and the parties a report under section 7 of the CA 1989:

- Should share residence be reinstated, or if another CAO better meet s T's needs
- Concerns of M and F regarding T's emotional and physical harm
- Whether T's needs are being met by M and F
- Effect on T of a proposed long-term CAO
- Is T at risk or has suffered significant harm alleged by each party
- Recommendations on final/ stepped arrangements
- LA support offered to the family
- If LA thinks each parent should undertake a psychological assessment, LA prepared to pay, and if not why not
- If LA thinks each party should undertake a parenting assessment, and if not why
- M will ensure that T spending time alone with the author of the Section 7 report
- LA to serve CP Conference and CiN and Core Group minutes and any other relevant documents.

<p>24th November 2017</p>	<p>Guildford DJ Beck</p>	<p>CHILD ARRANGEMENT ORDER RECITALS</p> <ul style="list-style-type: none"> - Submissions from the parties - Court and parties agreeing the issues in dispute: - For the avoidance of doubt, F has parental responsibility. F is entitled to liaise direct with T's nurse about her welfare. Any opposition from M is not to be taken into account. - The court recording that the ISW might be able to meet with T prior to supervised contact, but this meeting is not a precondition of contact taking place. - M has confirmed that T is available for supervised contact on Monday mornings, Wednesday afternoons and Sunday afternoons. The court records contact is likely to take place on Wednesday afternoons where possible and is likely to take place 3pm- 6pm. - F confirming that due to ISW's availability contact is not likely to be each week until after the Christmas break, but is hoped that at least two sessions can take place before Christmas - The court declining to attach a penal notice, but in the event of non-compliance the matter shall be listed at short notice before DJ Becks <p>ORDERS: M must ensure that T spends time or otherwise has contact with F:</p> <ol style="list-style-type: none"> 1. Weekly for 1.5 hours, not including travel time or handover time 2. Such contact shall be supervised and supported by CK ISW <p>CONTACT DIRECTIONS</p> <ul style="list-style-type: none"> - Handovers at the start of contact will be at M's house, ISW shall collect T, leaving F in the car - ISW will return T to M, again leaving F in the car - ISW will remain in M's home for up to 30 mins to ensure a smooth transition - ISW shall provide feedback to M after the contact session - ISW will provide reports as to how supervised has progressed to F's solicitor as soon as practicable, no later than 19th January 2018 and served forthwith to M's solicitors. - ISW shall have permission to speak to Allocated Social worker if she wishes - ISW Costs borne by F 	<p>Core Bundle B1- B6</p>
--	------------------------------	--	-------------------------------

- M shall be informed by ISW of the plan for contact with F, but M's agree to the venue or activities is not a pre-condition
- If M claims that T is unwell she must provide to F a medical note from T's GP confirming this. If no letter from GP, ISW shall attend M's property and make an assessment of T whether she can attend contact.

WITNESS STATEMENTS

- a. Parties file and served by 4pm 14th December 2017 to each other and the LA, CAFCASS and the Court, written statement- the parties themselves and any witnesses who are to give evidence.
- b. The LA shall ensure that the expert has copies of the parties statement during her assessment of each.

DISCLOSURE

1. Police and medical disclosure received by the solicitors shall forthwith be disclosed by F's solicitors to:
 - a. The LA
 - b. The LA shall ensure Dr Tizzard has sight of the police and medical evidence as well as today's bundle
2. Section A of the Court bundle (M and F's October PS and F's PS and Chronology) and today's order and judgement shall be disclosed to ISW.
3. The Police and medical disclosure shall be added to the Court bundle for disclosure to CAFCASS and for future hearings.

SECTION 7 REPORT

Ms SW (author of the section 7 report dated 11/10/07) has permission by 4:00pm on 24th January 2018 send to the Court and to the parties an updating letter in light of the progress of contact and the psychological reports as ordered herein.

PERMISSION FOR EXPERTS

The court gives permission for the parties to rely on the following expert evidence, the LA must

make sure that the expert evidence is obtained and made available to the court in accordance

- Dr Tizzard
- Each parents approach to the question of T's welfare and relationship with the other parents
- Whether any steps can be taken to improve the parent's relationship with one another
- Whether any therapeutic/ other input might assist the parents in managing their relationship
- The expert is to be instructed in writing as a SJE, the lead being taken by the LA
- Draft letter of instruction by 4pm 29th November 2017
- Letter agreed and dispatched 4pm 1st December 2017
- Expert may not see the child unless further order to do so is sought
- Delivery of experts report is 19th January 2018

NEXT HEARING

OTHER ORDERS

1. F can disclose this order to T's nursery
2. Leave to restore before DJ becks
3. F's solicitors shall file a copy to the LA

6 th March 2018	Guildford District Judge Beck	<p>CHILD ARRANGEMENT ORDER RECITALS</p> <ul style="list-style-type: none"> - The court having read the report of Dr Tizzard - And the attendance of Ms Johanna SW, author of the Section 7 report - F asking for clarification on frequency of the work recommended for Dr Tizzard - The Guardian recording that T has bene on a CP Plan since 19.12.2016, and the LA needing to give a view on if threshold for legal intervention is met. <p>ORDER</p> <ol style="list-style-type: none"> 1. Parties to agree an expert in order that the work recommended by Dr Tizzard in the recommended section of her assessment by 16:00hours on 9th March 2018 2. The matter be listed before DJ Beck to review: <ol style="list-style-type: none"> a. The progress for the respondent mother with recommended counselling, b. whether any Part 25 applications ought to be made with regard to a Child and Adolescent Psychologist, c. if/when contact between T and the Applicant father can commence, d. any applicants to vacate or relist shall be made by email 3. If an expert cannot be agreed, the matter will be returned to DJ Beck. 4. Next hearing vacated 	Other Applications Bundle B121- B123
18 th April 2018	Guildford DJ Beck	<p>ORDER BY CONSENT RECITAL</p> <ul style="list-style-type: none"> - All the parties including the M agree to appointment of Dr Tizzard <p>ORDER</p> <ol style="list-style-type: none"> 1. 1st May 2018 hearing be vacated, relisted for 31st July 2017 	Other Applications Bundle B126

9 th October 2018	Guildford DJ Beck	<p>ORDERED BY CONSENT</p> <p>RECITAL</p> <ul style="list-style-type: none">- Upon reading the email from Down Solicitors <p>ORDER</p> <ol style="list-style-type: none">1. Today's DRA is adjourned for the first available date after 12th November 2018, namely 17th December 2018, be released to another District Judge due to DJ Becks retirement.	Other Applications Bundle B129
------------------------------------	----------------------	---	---

<p>17th December 2018</p>	<p>Guildford DJ Trigg</p>	<p>CHILD ARRANGEMENT ORDER RECITALS</p> <ul style="list-style-type: none"> - Submissions from both parties - F not pursuing application to reallocation to Circuit Judge, judicially continuity to be achieved with DJ Trigg - F agreeing to cover the whole costs of play therapy, to ensure there is no further delay and to maximise the chance of his relationship with T being re-established - F confirming to the court that he is prepared to pay for the play therapist on the understanding it is no longer than 6 sessions as recommended by Dr Tizzrad - Neither party has received any minutes of meetings from G County Council in respect of E, who remains on a CPP - F may bring a photo of him and T to show the judge <p>ORDERS</p> <ol style="list-style-type: none"> 1. M shall make T available for therapy undertaken by Dr Shbero 2. Dr Shbero shall undertake 6 sessions of Theraplay with E: <ol style="list-style-type: none"> a. F's solicitors shall be the lead b. A letter of instruction shall be agreed by 4pm on 20th December 2018 c. Dr Shbero shall be sent Section C of the bundle prepared for today's hearing d. The 1st play therapy session shall be on 11th January 2019 at 9am for 1 hours e. Dr Shbero's recommendations shall be followed in respect of : <ol style="list-style-type: none"> i. Should she meet with the parents prior to the commencement of work, ii. The frequency of the five remaining sessions (or more, if recommended) and, iii. whether she should facilitate T receiving a gift and card from F for Christmas 3. M's solicitors shall service on T's school an agreed letter seeking permission for T to miss school as a result of the play therapy ordered above by 4pm 7th January 2019 4. The local authority shall file and serve the minutes of all CP Conferences, core groups and other meetings by 4pm on 7th January 2019. The child's solicitors shall serve a copy of this order on them forthwith. 5. Relisted for 12th March 2019 before DJ Trigg 6. In the event that G County Council fails to comply with paragraph 4, a representative shall 	<p>Other Applications Bundle B133- B135</p>
--	-------------------------------	---	---

		attend the hearing to explain why	
--	--	-----------------------------------	--

12 th March 2019	Guildford DJ Trigg	<p>DIRECTIONS HEARING ORDER RECITALS</p> <ul style="list-style-type: none"> - The LA failed to attend or send a representative, despite not providing all the documentation - The matter being reallocated to HHJ Raeside, a judge with a section 9 judge [ticket] - No available [availability] with HHJ Raeside before 15TH April 2019 - F putting the parties on notice that he will be applying for T to be a ward of court - The LA being put on notice to attend - As of 6th March 2019, T attends school until 12:45pm each day as opposed to a full school day- suggested by head teacher of the school and supported by T's GP - The Guardian expressing concern that there may be a negative impact on T's social, emotional and educational needs by the care given to her from M - The parties considering a medical being undertaken in respect of T, preferably by the LA - The Guardian informed that the LA will not be making a Part IV application in respect of T and the PLO process will likely be brought to an end. - It is recommended that F continue to pay for therapy session with Dr Shbero <p>ORDERS:</p> <ol style="list-style-type: none"> 1. Applicant to serve medical records of T on the other parties by 4pm on 15 March 2019 2. Any party wishing to make a Part 25 application shall do so by noon on 11th April 2019 3. F shall file and serve by noon on 18th March a letter from T's GP setting out health and issues that have to their knowledge affected T's school attendance this academic year. Such information shall be drafted by the solicitor for the Children's Guardian by 4pm 13th March 2019 4. Any costs from [from] the above shall be borne by the legal aid certificate 5. Dr Shbero shall file[d] and serve an updating report in relation to T's therapy, to include progress made and how many more sessions may be required, by noon on 18th March 2019, or latest noon 11TH April 2019 6. The local authority shall file and serve all parenting or other assessment they have either begun or completed on the parents by 4pm on 15th March 2019. The children's guardian shall serve a copy of this order on the local authority. 7. Leave to the LA to vary or discharge paragraph 6 of this order at short notice 	Other Applications Bundle B137- B140
-----------------------------	-----------------------	--	--------------------------------------

- | | | | |
|--|--|---|--|
| | | <ol style="list-style-type: none">8. The children's guardian shall notify G County Council that in the event of further non-compliance with this order, a costs order may be sought against the LA9. Re listed before HJ Raeside | |
|--|--|---|--|

20 th March 2019	High Court Moor J	ORDER 1. T made a Ward of Court	
--------------------------------	----------------------	------------------------------------	--

<p>16th April 2019</p>	<p>Guildford HHJ Raeside</p>	<p>INHERENT JURISDICITON CHILD ARRANGEMENT ORDER:</p> <ol style="list-style-type: none"> 1. The Respondent mother shall make T available to spend time with F as follows <ol style="list-style-type: none"> a. For skype contact on 19th April at 10am (for no more than 30 mins) and every Thursday thereafter at 5:00pm or at another time agreed between the parties in writing b. For Skype contact on 22nd April at 10am (for no more than 30 mins) and every Tuesday thereafter at 5:00pm or at another time agreed between the parties in writing c. On 26th for direct contact to be supervised by Dr Shbero for as long appropriate d. On 1st May 2019 from after school until 5pm for a period of 2 hours e. On Monday 6th May from 10am until 3:00pm f. On Friday 10th Mat from after school until 6:30pm g. On Wednesday 15th May after school until 6:00pm h. On Friday 17th May from after school until 6:30pm i. On Wednesday 22nd May after school until 6:00pm j. On Sunday 26th May from 10am until 5:30pm k. On Tuesday 28th May from noon until 10am on 29th May l. On Saturday 1st June from noon until 10am on Sunday 2nd June <p>When Handovers do not take place at school but at X</p> <p>IT IS ORDERED THAT</p> <ol style="list-style-type: none"> 2. T shall remain a ward of court 3. T shall joined a party to the wardship proceedings 4. LA shall file and serve a transition plan in the event that T is moved to live with her father by 4pm 28th May 5. M shall file and serve a statement by 4pm on 30th May 2019 addressing what she says has changed to enable her to facilitate a relationship between T and her father, specifically what steps she has taken to address the issues identified by Dr Tizzard 6. Next hearing 7. Parties to file statements 8. Redacted copies of this order shall be served on T's school by F's solicitors 	<p>Other Applications Bundle B160- B162</p>
---------------------------------------	--------------------------------------	---	---

16 th April 2019	Guildford (High Court) HHJ Raeside	INHERENT JURISDICITON ORDER ORDER <ol style="list-style-type: none">1. T remain as a ward of court2. T shall be joined as a party to proceedings3. LA to file and serve a transition plan by way of a PS in the event that T moved to live with her F by 4pm 28th May4. M shall file and serve a statement by 4pm 30th May 2019 addressing what she said has changed to enable her to facilitate a relationship between T and F and specifically what steps she has taken to address the issues identified by Dr Tizzard5. Further listing	Other Applications Bundle B163
--------------------------------	---	--	---

<p>3rd June 2019</p>	<p>Guildford HHJ Raeside</p>	<p>CHILD ARRANGEMENT ORDER CAO:</p> <ol style="list-style-type: none"> 1. The M shall make T available to spend time with F: <ol style="list-style-type: none"> a. On alternate Wednesdays from after school until 6:30pm commencing 5th June 2019 b. On alternate Fridays commencing 7th June 2019 from after school until 6:30pm c. On alternate weekends commencing 14th June 2019 from after school on Friday until 2pm on Saturday. d. Such further or alternate times as may be agreed between the parties <p>For the avoidance of doubt, when handovers do not take place at school they shall take place at Café Rouge X Street.</p> <p>RECITALS</p> <ul style="list-style-type: none"> - The court encouraged the parties to mediate - All parties agreed for E to be referred to an educational psychologist, school indicating they wish to make the referral - The guardian making an oral application, and the court granting, for Dr Shbero to provide an expert opinion to inform the professionals, lay parties and the Court of T's support and therapeutic needs, and any potential short and long term contact and care options for E in light of those identified needs. <p>ORDERS:</p> <ol style="list-style-type: none"> 1. Dr Shbero to undertake an assessment of T. Letter of instruction shall be circulated, agreed and sent by 4pm on Friday 14th June 2019. The costs of the assessment shall be borne solely by the solicitor for the child. The report shall be filed and served by 4pm 2nd August 2019. 2. The LA shall by 4:00pm on 20th June 2019 file and serve a transition plan which must address the option of transfer of T's living arrangements if the court were to make that decision 3. The Guardian shall by 4pm on 7th August 2019 file and serve a PS setting out: <ol style="list-style-type: none"> a. What [is any] further evidence is required to assist the court for there to be a transfer of T's living arrangement in the event this option is decided by the court to be in T's best interests b. What should be the arrangements for T spending time with her parents over the 	<p>Other Applications Bundle B165- B167</p>
-------------------------------------	--------------------------------------	---	---

summer holidays

c. House the time between T and F should progress more generally

4. Matter to be heard at a further hearing

3 rd June 2019	Guildford (sitting as high court) HHJ Raeside	ORDER 1. T shall remain a ward of court until further order 2. The matter shall be heard concurrently with GU17P000345	Other Applications Bundle B169
------------------------------	---	--	---

<p>12th August 2019</p>	<p>Guildford HHJ Raeside</p>	<p>RECITALS</p> <ul style="list-style-type: none"> - Previous direction T under a psychology assessment - Parties agreeing the psychologist letter of instruction to Dr Shbero to include: <ul style="list-style-type: none"> a. An assessment of T's behaviour and current levels of anxiety generally and/ or in relation to contact with F, and if any, how the anxieties have ameliorated b. T's current support and therapeutic needs if any c. Opinion at the optimal contact and care options for T (both short and long term) with both F and M in the light of her needs - Dr Shbero indicating that to answer the question above she will need to assess M and F parenting- proposing further interview with M and F - Dr Shbero indicating this will require a further 20 hours work - Dr Shbero's work and instruction being increased to include this - Dr Shbero now report due 13th September 2019 - Directions varied as below <p>ORDER</p> <ol style="list-style-type: none"> 1. Dr Shbero assessment if T being extended and filed and served by 4pm 13th September 2019 2. The children's guardian shall file and serve by 4pm 20th September 2019 a PS relating to: <ol style="list-style-type: none"> a. What is any further evidence is required to assist the court for there to be a transfer of E's living arrangement in the event this option is decided by the court to be in T's best interest b. What should be the arrangements for T spending time with her parents over the school holidays c. How the time between T and F should progress more generally 3. Listed for next hearing 	<p>Other Applications Bundle B179- B180</p>
--	--------------------------------------	---	---

12 th August 2019	Guildford HHJ Evans- Gordon (on the papers)	INHERENT JURISDICTION ORDER 1. The hearing on 12 th August be vacated and relisted for a further hearing with the LA is requested to attend on 25 th September 2019.	Other Applications Bundle B181-
------------------------------------	---	--	--

<p>25th September 2019</p>	<p>Guildford (sitting as the High Court)</p> <p>HHJ Raeside</p>	<p>CHILD ARRANGEMENT ORDER</p> <p>RECITALS</p> <ul style="list-style-type: none"> - It being agreed that F shall take T to “rainbows” on Thursdays - The court consents to T, a ward of court, having the flu vaccine - Concerns about the report of Y suggesting T appears on the autistic spectrum - The court inviting the representative on behalf of the guardian, and the parties agreeing to share a copy of Y’s report with Dr Shbero to alter her own report dated 13th September 2019 - M to take Y’s report to T’s GP and for timescales of a further referral and assessment - Fixing a final hearing <p>CHILD ARRANGEMENTS ORDER</p> <p>M shall make T available to spend time with F:</p> <p>Week 1: after school Wednesday until 6:30pm, Friday after school until School on Monday morning</p> <p>Week 2: after school Wednesday until Friday 6:30pm which will commence 26th September 2019</p> <p>Half term: For half the October half term, F shall have the 1st half, 23rd October- 29th October</p> <p>Handovers, when not at school, take place at X</p> <p>ORDERS</p> <ol style="list-style-type: none"> 1. T shall remain a ward of court 2. LA file and serve a revised and transition plan, having read the report of Dr Shbero by 4pm 16th October 2019 3. Any questions to experts shall be asked by 4pm 11th October 2019 <ol style="list-style-type: none"> a. Response to be filed by 4pm 1st November 2019 4. The Guardian shall forward the report of Y to Dr Shbero and ask questions, about the recommendations and conclusions and if T having an autistic spectrum assessment is fundamental to the recommendations made. The guardian shall circulate the response from Dr Shbero to all the parties. 5. Parties shall file and serve by 4pm 18th October 2019 and simultaneously exchange statements setting out their proposals for T’s care and the order they seek at the final hearing. 	<p>Core Bundle B11- B13, repeated at B14- B16</p>
---	---	--	---

M's will include evidence from her therapist and communication with Dr Shbero.

6. The guardian shall file and serve final analysis and recommendations by 4pm 1st November 2019.
7. Further hearing listing.

<p>2nd December 2019</p>	<p>Guildford (sitting as a judge of the high court) HHJ Raeside</p>	<p>ORDER RECITALS</p> <ul style="list-style-type: none"> - M visited the GP with Education Psychologist report and the GP saying hearing and eyesight examination needs to be undertaken before autistic spectrum assessment. - M confirming T's eyesight test has been completed and there are no concerns - M confirming that T's hearing needs to be tested, but as a Ward of court, permission is needed - All parties agreeing that all tests need to be taken. <p>ORDERS</p> <ol style="list-style-type: none"> 1. T remains a ward of court 2. T's GP to refer T for a hearing test/ treatment 3. Permission for M to disclose order to GP 	<p>Core Bundle B18</p> <p>Other Applications Bundle 1</p>
---	---	--	---

ANNEX B

1. Recently, in ***Re L (A Child) [2019] EWHC 867 (Fam)*** the President stated at paragraph 59:

“The test is, and must always be, based on a comprehensive analysis of the child's welfare and a determination of where the welfare balance points in terms of outcome. It is important to note that the welfare provisions in CA 1989, s 1 are precisely the same provisions as those applying in public law children cases where a local authority may seek the court's authorisation to remove a child from parental care either to place them with another relative or in alternative care arrangements. Where, in private law proceedings, the choice, as here, is between care by one parent and care by another parent against whom there are no significant findings, one might anticipate that the threshold triggering a change of residence would, if anything, be lower than that justifying the permanent removal of a child from a family into foster care. Use of phrases such as "last resort" or "draconian" cannot and should not indicate a different or enhanced welfare test. What is required is for the judge to consider all the circumstances in the case that are relevant to the issue of welfare, consider those elements in the s 1(3) welfare check list which apply on the facts of the case and then, taking all those matters into account, determine which of the various options best meets the child's welfare needs.”

2. The above was quoted recently by Keehan J in ***Re H (Parental Alienation) [2019] EWHC 2723 (Fam)*** who also stated at para 4:

*“I have at the forefront of my mind that the welfare best interests of H are the court's paramount consideration: s.1(1) Children Act 1989. When determining this application, I have regard to the welfare checklist of s.1(3) of 1989 Act. At all times I have regard to the Article 6 and Article 8 rights of the child and of the parents but bear in mind that where there is a tension between the Article 8 rights of a child, on the one hand, and of the parent, on the other, the rights of the child prevail, *Yousef v The Netherlands [2003] 1 FLR 210.*”*

3. The court will also be mindful of the guidance of Ryder LJ in ***Re F (A Child) (International Relocation Cases) [2015] EWCA Civ 882*** as to the approach to be taken in private law cases where there are competing options:

*29. In [Re W \(Care Plans\) \[2013\] EWCA Civ 1227](#), [2014] 2 FLR 431 at [76 - 78] I held that in relation to public law children proceedings the welfare analysis of realistic options that is required would be facilitated by a balancing exercise first recommended by Thorpe LJ in the different context of a medical treatment case in *Re A (Male Sterilisation) [2000] 1 FLR 549* at 560. That approach had been identified by my Lord, McFarlane LJ in [Re G \(Care Proceedings: Welfare Evaluation\) \[2013\] EWCA Civ 965](#), [2014] 1 FLR 670 at [54]:*

“What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives

and negatives and each option is then compared, side by side, against the competing option or options."

It was subsequently approved by Sir James Munby P in this court in [Re B-S \(Children\) \[2013\] EWCA Civ 1146](#), [2014] 1 FLR 1935 at [36] and at [46] where the approach was described by him in these terms:

"We emphasise the words 'global, holistic evaluation'. This point is crucial. The judicial task is to evaluate all the options, undertaking a global, holistic and ... multi-faceted evaluation of the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option"

30. That approach is no more than a reiteration of good practice. Where there is more than one proposal before the court, a welfare analysis of each proposal will be necessary. That is neither a new approach nor is it an option. A welfare analysis is a requirement in any decision about a child's upbringing. The sophistication of that analysis will depend on the facts of the case. Each realistic option for the welfare of a child should be validly considered on its own internal merits (i.e. an analysis of the welfare factors relating to each option should be undertaken). That prevents one option (often in a relocation case the proposals from the absent or 'left behind' parent) from being sidelined in a linear analysis. Not only is it necessary to consider both parents' proposals on their own merits and by reference to what the child has to say but it is also necessary to consider the options side by side in a comparative evaluation. A proposal that may have some but no particular merit on its own may still be better than the only other alternative which is worse.