

Neutral Citation Number: [2023] EWFC 159 (B)

Case No. DE22F00082

**IN THE FAMILY COURT**  
**SITTING AT DERBY**

Combined Court Centre  
Morledge  
Derby  
DE1 2XE

Date: 16<sup>th</sup> April 2023

**Before:**

**MR RECORDER O'GRADY**

**B E T W E E N:**

**EH**

**Applicant**

**- and -**

**FT**

**Respondent**

**Keith Hathaway** (instructed by Wykes O'Donnell Williams) for **the Applicant**  
**The Respondent** appeared in-person

Hearing dates: 15 and 16 April 2023

**JUDGMENT**

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*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..*

**Mr Recorder O'Grady:**

## **Introduction**

1. This is an application under Part II of the Children Act 1989, which I have heard over the course of two days. I am dealing with the welfare of ST, who was born in May 2019 (she is three years old) and LT, who was born in March 2018 (she is five years old). The children's mother is EH ("**the mother**"). She is the applicant in these proceedings. The children's father is FT ("**the father**"). He is the respondent in these proceedings.

## **Preliminary Issues**

### Participation Arrangements

2. At the beginning of this hearing, I indicated to the parties that it appeared necessary and in the interests of justice for there to be participation arrangements given: 1) the allegations made by the mother against the father of domestic abuse; and 2) the father's traumatic brain injury.
3. It appeared to me that each of these features rendered each of the parties potentially vulnerable witnesses in these proceedings. In light of this, I directed there should be a screen separating the parties during the hearing and that there would be a screen during the giving of evidence. I also prohibited each of the parties from cross-examining each other personally.

### The Father's Brain Injury

4. The father experienced a serious traumatic brain injury in 2008. It has impacted his level of functioning and his ability to participate in these proceedings. I discussed with him at the outset ways in which I could assist him in participating in these proceedings.
5. I did that by ensuring that there were regular breaks. I ensured that he was provided with paper and pens so that he could make notes during the hearing. I flagged very clearly what was happening at each stage of the hearing so that he understood what would be happening during the proceedings. Further, in the event that I did not detect him experiencing difficulty during the hearing, and he was also unable to communicate that difficulty to me, we agreed that he would alert me to the difficulty he was having by placing an object from his bag onto the table in front of him.
6. The father has represented himself in these proceedings and I have been anxious to ensure his fair participation. I recognise that prohibiting him from cross-examining the mother impedes his ability to put his case. During the hearing there have been many long and extended breaks whilst I have been required to deal with urgent matters that were put into my list. Those breaks have lasted, at times, for hours. The father, helpfully, came with a bundle of the papers and, at the earliest opportunity when the case was called on, I set out to him what the format of the hearing would be and that it would assist the Court if he prepared a list of questions that he would want to ask of the witnesses during the hearing. To his credit, he did that and, if I may say so, respectfully, he did that effectively. During the hearing he was not able to cross-examine the mother because of my direction, and therefore I asked questions of the mother that were prepared by the father. It was apparent also that

the father would be assisted by me asking questions of the social worker on his behalf given the difficulties I have identified and I did that.

### **The Issues**

7. There are two issues:
  - a. The nature of the relationship the children should have with the father; namely whether that should involve direct contact or indirect contact alone; and
  - b. How parental responsibility should be exercised if the father is not to have direct contact with the children.

### **Background**

8. The mother was born in February 1978. She is 45 years old. The father was born in December 1979. He is 43 years old.
9. In 2008, prior to the parties' relationship commencing, the father was the victim of a life changing crime. He experienced a very serious assault which resulted in him sustaining severe traumatic brain injuries, which he lives with to this date.
10. The parties' relationship began in 2016. They cohabited together from later on in that year. It is alleged that there were incidents of violence and volatility in the relationship. Indeed, each of the parents makes allegations against the other about that volatility in the relationship.
11. The father has not seen or spent time with the children since November 2021. This followed, what the mother alleges, was an episode of violence by the father in the presence of the children and their half-sibling, GK. It is alleged the children were hysterical at seeing the father's violence to the mother and left with considerable fear. Proceedings concerning GK were disposed of by another Judge with the making of an order for contact to take place only by indirect means.
12. These proceedings were commenced by the filing of an application for child arrangements orders and non-molestation orders on the 12 April 2022. They had their first hearing later that month. Those proceedings were joined with proceedings concerning GK, on 29 November 2022. An order was made in the proceedings concerning GK that the father have indirect contact with him, not direct contact. The father told me that was an order that he consented to.

### **The Evidence**

13. I have read all the written evidence carefully. I similarly listened carefully to the oral evidence. This judgment is not intended to be a repetition of everything I have considered, and my failure to recite a particular part of the evidence does not reflect a failure on my part to consider it. What follows is only intended to be a summary.

### **The Consultant Clinical Neuropsychologist (CB)**

14. CB is a consultant clinical neuropsychologist, head of his department at the University hospitals of Derby and Burton. I have considered a letter prepared by him dated 22 November 2022 and an email of 25 January 2023. CB has been involved in the father's treatment since January 2009. It is described that the father experienced a "very severe traumatic brain injury in an assault [in] 2008". I am told that the father suffered significant impairment of his day-to-day function in the time following the assault, however happily:

"During further rehabilitation after several years, he regained the capacity to manage his financial affairs, albeit with a recognition that he required some advice and support in doing so. He also managed to return to doing some part-time employment, including some self-employment, but struggled to cope with the multiple demands of the latter and is currently reliant on benefits for his income."

15. I am told that, to his credit, the father is involved in an organisation called Headway where he supports others who have similar experiences to him. It reinforces coping strategies for dealing with issues learned during rehabilitation. CB goes on to tell me:

"FT has unfortunately been left with a number of cognitive issues as a result of his brain injury which are unlikely to improve further, either spontaneously or in response to any additional neuro-rehabilitation. These are particularly partially related to damage to the frontal lobes of his brain causing him some problems with executive function. This means that he struggles to deal with unforeseen eventualities or to quickly and dynamically problem solve under such circumstances. He can also be somewhat rigid in his thinking and behaviours. He is prone to a considerable degree of fatigability if he does not plan and pace his activities carefully and, as he begins to fatigue, he can become somewhat inattentive. He finds having to multi-task particularly challenging, not only because of his dysexecutive issues, but also because of how this quickly fatigues him. Whilst he recognises the need for some assistance in his day-to-day management of his everyday affairs and is in receipt of funding for a personal assistant in this regard, he can somewhat overestimate his abilities at times. However, in general, he is capable of supported independent living as detailed above and has long ago been found fit to drive by the DVLA. Although his decision making is mostly sound under predictable circumstances, it can be less so in unpredictable ones, particularly if he is fatigued or emotionally upset in some way. At such times he can act out impulsively in ways that are usually characteristically of him and he can loudly vent his anger with little recognition of the impact this could have on people around him."

CB says:

"I have no doubt that FT is missing contact with all his children and is wanting such contact to resume at the earliest possible time. However, I believe it would be in his and the children's best interests for this to

resume as soon as possible in a controlled environment where his ability to parent his children can be monitored by experienced childcare staff who can offer him direction or intervention if he begins to struggle in any way. If he is to have any contact outside of such an environment, then I would recommend that this initially be only with him being in the company of another adult approved by the Court. Whilst I hope in the long term he will prove himself capable of having his children under his sole care back in his own home or outside in the community, I feel this needs to be subject to assessment and support from statutory services to give the best chance of this happening safely for both him and his children.”.

16. In his recent email, CB went on to tell me that the father would indeed have difficulty coping with unexpected events and quickly problem solving given the rigidity of his thinking and the challenges he has with multi-tasking, especially when tired, fatigued and distressed.

#### The Social Worker (DS)

17. DS (“**the social worker**”) is a local authority social worker who has prepared reports under s 7 of the Children Act 1989; one concerning GK, one concerning ST and LT. She has also prepared an addendum s 7 report, which I have considered.
18. I was told by the social worker that when she first met ST and LT in November 2021, they were extremely quiet and did not engage with her in conversation. In particular, ST would not talk and used very little language. Over the course of the meeting, the social worker ended her involvement as she had no concerns at all about the mother’s ability to meet the children’s needs and to work in the best interests of the children. It was the social worker’s opinion at that time that the mother was safeguarding the children effectively. When the social worker met the children again, ST was, on this return visit, found to be an extremely bubbly little girl who was absolutely full of energy. Similarly, LT was confident to talk about her mother and her father.
19. The social worker has met with both parents. In her interactions with the father, the social worker’s interpretation is that the father is very adamant that he was the victim of an altercation in November 2021, that his son GK was not hurt, and that he did not do anything wrong. In the social worker’s opinion, the father put the blame for this incident on the mother.
20. In her interactions with the children, the social worker found the girls were able to articulate their views and opinions clearly. They told her that they do not want to have contact with the father. They are nervous and scared of him. Both children have a good attendance within school and nursery, and there are no concerns relating to their education and learning needs. Both children access counselling from school. LT did so a matter of days after the incident in November 2021 and ST has begun that more recently. The girls have a close bond with the father’s son and he has regular contact with ST and LT. There is found to be a strong attachment between them and they are protective of each other. In her s 7 report the social worker told me that in her opinion direct contact would have a detrimental effect on the

children's current emotional and mental wellbeing. They have remained consistent in their views and they do not want to see the father because, "They are scared and nervous."

21. It is the social worker's judgment that there are ongoing concerns regarding the father's ability to care for his children. In her opinion, the father has shown little understanding of the impact of his behaviour on the children and the mother, and he is unable to accept any responsibility for his actions and continues to place the blame on others. It is the social worker's opinion that introducing contact whilst counselling is in its early stages is not appropriate. She would not rule out contact in the future, but she does not consider it in their best interests for face-to-face contact to resume.
22. The social worker found the mother to have conflicted views regarding contact. The mother expressed strong views, strident views that she was not in favour of resuming contact but understands that the father will be missing the children. It was recommended to me that the children should live with the mother and there should be indirect contact by way of letters and photographs, initially on a monthly or once every two-month basis.
23. In her oral evidence, the social worker emphasised to me that the children, in her view, have suffered trauma. She considered it would be very traumatic for the children to see the father and she told me that it would, "make [her] nervous", for that to occur. The social worker reiterated the change in appearance that she has observed in the children from around November 2021 to more recently. They presented then as traumatised children and the change that has been seen by the social worker has, in her view, been drastic.

### The Mother

24. The mother relied upon witness statements, which are in the bundle, and she provided oral evidence to me. In her statement of 20 April 2022, she describes domestic abuse experienced by herself and the children at the father's hands. I do not propose to enter into further detail of that at this time. She prepared an additional statement dated 30 November 2022. The mother told me in the position statement submitted to me that she believes it would be harmful to the welfare of the children, whose education has improved at their new school, to have contact with the father at this time. She considers that if direct contact was to take place it would be disastrous and therefore, in her view, contact should take place in accordance with the s 7 report.
25. I am told by the mother that the father has not adhered to the current order for indirect contact in each month since it was made by the Court in August 2022. She tells me there has only been one indirect contact at the time of writing her witness statement and she expressed concern about the inconsistency on the father's part and in the future.
26. The mother gave oral evidence to me. In her oral evidence, she described the event that precipitated the end of the relationship with the father. She told me that on that November night in 2021, the father grabbed his son, GK, pulled him and tried to drive him away. She intervened and put herself between GK and the father and she sustained blow by blow on her back. She says her clothes were pulled as she was trying to protect GK. This spilled into the street. It was seen by GK's mother, and somebody nearby called the police.

27. The mother considers that indirect contact should take place. It can be facilitated, she tells me, through GK's mother who is prepared to help facilitate the exchange of correspondence. The mother is concerned about the content of the father's correspondence. The specific concerns appear to be three-fold. First, the mother is concerned that the father drew a heart with an arrow through it in a previous letter. I have to say that was not something that I thought especially troubling. Secondly, the mother is concerned that the father places an uneven emphasis between the two girls. She considers that the children may well detect that the father has warmer words to express to one of them than the other; for example, the use of the words, "You are daddy's world", to one of the children and not the other.
28. The third area of concern the mother holds is that LT is described as, "Perfect Princess L". This is, I am told by the mother, said to relate to a time when a pumpkin was being taken, LT was critical of that and the father used the phrase, "Perfect Princess", in a way to belittle and criticise LT. For his part, the father disagrees with that interpretation. He tells me he has used the phrase, "Perfect Princess L", for as long as LT has been born.

### The Father

29. The father provided written evidence to me. His written evidence disavows the suggestion that he was the perpetrator of domestic abuse. He wishes more fervently to have a meaningful relationship by way of direct contact with his two girls. He accepted in his evidence to me that the children were likely left highly traumatised by the circumstances that led to the breakdown of the relationship, although he was unable to make that concession to me without qualifying it by saying that he also was traumatised in the process.
30. The father tells me that there were very many occasions when he undertook the care of the children. He says that he changed nappies, fed the children, took them to nursery, cared for them in the garden and looked after them when the mother went out shopping. He said he did all of these things often and without anybody supervising him. Given he has had his brain injury since before the children were born, he points to that history that he alleges and asks, what is so different about the circumstances now.

### **Positions of the Parties**

31. The mother opposes direct contact taking place between the children and their father. She agrees to indirect contact taking place and the father being able to be kept informed about the developments in the children's lives.
32. The father wants to see the children and he is prepared to do so, essentially, on whatever terms I consider would be safe and acceptable.

### **The Law**

#### Factual Determinations

33. Where a fact is in dispute, the burden is on the party alleging the fact to be true to prove it is true. The standard of proof is the simple balance of probabilities.

34. Whether an assertion of fact is true is binary. If the standard of proof is met, then the assertion is fact and treated so for my decision making. If the standard of proof is not met, then the assertion is not a fact for my decision making. There is no room for treating suspicion as fact for the purpose of my decision making.
35. Any findings I make must be based on evidence, including inferences reasonably drawn from the evidence and not speculation. That evidence can be written or oral, and I can rely on hearsay evidence from witnesses who have not given evidence. However, I must consider carefully what weight to give that hearsay evidence as I have not had the opportunity to consider how it would have stood up to challenge by cross-examination. Baroness Hale cautioned in *W (Children)* [2010] UKSC 12:

“29. There are specific risks to which the Court must be alive; allegations of abuse are not made by a neutral expert Local Authority which has nothing to gain by making them, but by parents who are seeking to gain an advantage in the battle against the other parent. This does not mean they are false, but it does increase the risk of misinterpretation, exaggeration and downright fabrication.”.

The Court must take account of all the evidence, considering each piece of the evidence in the context with the other evidence, surveying a wide landscape, and must avoid compartmentalising.

### Domestic Abuse

36. I am mindful of the definition of domestic abuse under s 1 of the Domestic Abuse Act 2021. Domestic abuse includes any single incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are personally connected within the meaning of section 2 of the Domestic Abuse Act 2021.
37. Abuse can encompass, but is not limited to, psychological, physical, sexual, economic or emotional abuse. Economic abuse means any behaviour that has a substantial adverse effect on the other’s person’s ability to acquire, use or maintain money or other property, goods or services.
38. Coercive behaviour includes an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.
39. Controlling behaviour includes an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.
40. The circumstances encompassed by the definition of domestic abuse in Practice Direction 12J recognises that coercive and/or controlling behaviour by one party may cause serious emotional and psychological harm to members of the family unit, whether or not there has been any actual episode of violence or sexual abuse.



41. In short, a pattern of coercive and/or controlling behaviour can be as abusive or more abusive than any particular factual incident that might be written down and included in a schedule in court proceedings. It follows that the harm to a child in an abusive household is not limited to cases of actual violence to the child or to the parents. A pattern of abusive behaviour is as relevant to the child as to the adult victim. A child can be harmed in any one or a combination of ways, for example, where the abusive behaviour:
- a. Is directly against or witnessed by the child.
  - b. Causing the victim of the abuse to be so frightened of provoking an outburst or reaction from the perpetrator that she or he is unable to give priority to the needs of his or her child.
  - c. Create an atmosphere of fear and anxiety in the home which is inimicable to the welfare of the child.
  - d. That risks inoculating, particularly in boys, a set of values which involves treating women as being inferior to men.
42. It is equally important to be clear that not all directive, assertive, stubborn or selfish behaviour, will be 'abuse' in the context of proceedings concerning the welfare of a child. Much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour. There is no bright line that defines what kind of behaviour can properly be characterised as coercive and controlling.

### Welfare

43. Each child's welfare, individually, has been my paramount consideration. I assess each child's best interests within the context of the considerations in s 1(4) of the Children Act 1989.
44. I remind myself that when considering whether to make a s 8 order, I must presume, unless the contrary is shown, that the involvement of each parent in a child's life will further each child's welfare. A parent will be treated as benefitting from that presumption unless there is some evidence before the Court to suggest that the involvement of the parent in the child's life would put the child at risk of suffering harm.
45. The Court must not make an order pursuant to its powers under the Children Act 1989 unless it considers that doing so would be better for the child or children than making no order at all, or no less draconian order.

### **Discussion and Analysis**

#### Welfare Findings

46. *Ascertainable wishes and feelings of the children in light of their age and understanding.* The children have firmly expressed a view that they do not wish to spend time with the father. They are described variously to be nervous and traumatised and that the experience of seeing the father would be very traumatic for them. I doubt these children, given their

ages, fully appreciate the consequences to their long-term welfare of not having a direct or meaningful relationship with the father. There is no doubt in my mind that the children lack the maturity to weigh in the balance the positive and negative features of having a meaningful direct relationship with the father. Thus, whilst the children's wishes are an important part of the evaluation of their welfare, they are very far from being determinative in this case.

47. *Physical, emotional, educational and mental health needs.* When these children were first seen by the social worker in the later half of November 2021 they were struggling. The father, for his part, conceded in his evidence to me they were likely traumatised at the time the relationship ended. They are now doing well academically. They have good attendance at school. They are accessing counselling, which is likely to help them process the experiences they have had in their short lives. They have a need for a relationship with each of their parents for a number of reasons, not least because that will help them understand their own identity but, where it can take place safely, it will help them have safe and meaningful relationships themselves once they are adults.
48. *The likely effect of change on each of the children.* The children have not seen the father since 2021. In that time they have changed "drastically". Their welfare overall appears to have significantly improved. They are engaged in counselling. Just because there has been that change does not mean that they should be prevented from having a direct relationship with their father, however I am driven, in light of the evidence, to conclude that if they were to see their father they would, at this time, suffer trauma that would set them back quite considerably.
49. *The age, sex and background and any other relevant features of each of the children.* They are each young females. They have important relationships with their older sibling, GK.
50. *Harm suffered or at risk of being suffered.* It is likely the children have suffered real emotional harm by witnessing the father's volatility. They have felt unsafe. They have suffered trauma and they are on a journey to processing their experiences through counselling. The social worker tells me that if direct contact is reintroduced whilst counselling is in its early stages then that would be inappropriate. There is a risk the children will suffer harm from their father because of the limitations in his capacity and capability to parent the children.
51. *The capability of each of the parents to meet the children's needs – the mother.* The father has expressed various complaints to me during the hearing about the mother, but when pushed, he concedes the mother is a good mother. I consider she loves the children very much. Were it not for her being able to care for the children at this time, then it is questionable as to who would care for them. I am satisfied that she can meet each of the children's needs.
52. *The capability of each of the parents to meet the children's needs – the father.* I have listened to the father from the witness box and from his seat in Court for two days now. There is not a single part of me that doubts he loves his children very much. They mean a tremendous amount to him, but unfortunately, love alone is not enough to make a person a parent capable of meeting all of their child's needs.

53. At this time, with the children in their current states, I find it unlikely that the father has the capacity to meet the children's needs in contact that is even supervised. The children would likely be extremely distressed. They would find the experience very distressing and given his difficulties as outlined by CB, I do not consider it likely the father would have the skills to adapt to a highly dynamic situation and deploy the problem-solving skills that would be required to meet the children's needs in even a short period of time. The risk is that the children would experience a situation in which their emotional and physical needs would not be met, it would regress them and set their relationship back with the father further than it even is to date.
54. *The range of powers available to the Court.* I can make section 8 orders including child arrangement orders, prohibited steps orders, specific issue orders and, of course, no order.

#### Welfare Options

55. I propose to evaluate the advantages and disadvantages to the children's welfare of each of the options available to me.

#### *Indirect contact only*

56. The positives of there being no direct contact and contact only taking place by correspondence include that the children would likely feel safe and protected from trauma and being retraumatised. They would be able to continue with their counselling without adding an additional layer of complication to what they must process. The mother is likely herself to feel safe and feel that the children are safe. She will be relieved of the unacceptable emotional strain I find she would suffer at this time in facilitating the contact. It is likely, in my judgment, at this time, the mother facilitating the contact would be so burdensome on her that she would seriously struggle to cope with meeting the children's emotional needs that would follow from their experience of that contact. It would be unlikely the children would regress if the contact remains correspondence, and they would be overall protected from harm because the mother would filter the letters and cards.
57. It is not lost on me, however, that limiting the father's relationship to the children to correspondence only carries with it very significant, indeed profound, disadvantages to the children's welfare. It will severely limit their sense and understanding of their paternal identity. There is no obvious or apparent other significant connection that they have to their father. I accept that limiting direct contact makes the resumption of direct contact challenging because it builds up an unknown and potentially a fear about resuming what has not been tried. Such an order would be very draconian. It would be a serious severance, at least in the short to medium term, of the relationship between the children and their father. It may cause the children to have challenges themselves in having meaningful relationships as adults and when they are parents themselves if they do not have meaningful relationships with their own parents.

#### *Direct contact, including supported and supervised contact*

58. If I order direct contact, the children will have the positive experience of knowing who their father. It will assist the children's sense of identity. The children may be reassured in some way to see their father.

59. I regret, however, there are significant disadvantages to the children's welfare of direct contact resuming at this time. I accept the children will likely suffer trauma because they are still on a journey to processing their experiences in their father's care which, coupled with the father's limitations presently in meeting the children's emotional needs, will likely cause real emotional harm. The children will be unlikely to feel safe physically and emotionally because the father cannot meet their needs. The children are likely to regress in their progress emotionally and academically, and it may well make it harder for the children to have a relationship with the father in the long term if they are, as I find, not psychologically ready. If commencing that contact now or in the near future is very negative for the children, that may have been the last best opportunity to resume the relationship, and if it is negative or fails, there may not be another good opportunity that can be tried again for the foreseeable future.

## **Conclusions**

### Findings

60. My assessment of the mother is that she is an honest witness and I have found her evidence to be corroborated by the written documents. For his part, I do not consider the father to have lied to me in the witness box. I think he is probably an honest witness, but I judge he is not a reliable witness. I consider his recollections are poor and he is an inadequate historian when it comes to past events. It is likely that his recollection of the facts is heavily affected by his injury. Thus, where there is a conflict in the evidence of the mother and the father, I prefer the evidence of the mother. I accept her evidence and her version of events that there was a significantly traumatic episode that led to the end of the relationship that involved beating, hitting, grabbing of GK and pulling at the mother's clothing. It would have been extremely distressing for those who experienced that incident by witnessing it and being a part of it. Not only will the impacts have been immediate in nature, but it is likely that the incident was so severe that it will have caused long-term harm to those involved. For his part, the father concedes the incident will have been traumatic.

### Welfare

61. The father undoubtedly loves and cares for his children. I come to that conclusion with absolute confidence having listened to his video and heard how he spoke to his children. He clearly does love them very much. Despite all that however, I am driven to conclude that it is not in the children's best interests at this time for direct contact to take place. It would be traumatic and significantly harmful. The children would regress. To start direct contact now would do more long-term harm than it would do good.
62. I have weighed the advantages and disadvantages of each of the options carefully and I have come down, regrettably, to the conclusion that the advantages of direct contact resuming in any form are outweighed by the disadvantages, and that the advantages of indirect contact are outweighed by the disadvantages. It is not lost on me in the slightest bit that to prevent children having a direct relationship with either of their parents is a most severe remedy, arguably the most severe and draconian remedy a Court can order in private law proceedings of this kind. I have regrettably however come to the conclusion that such an order is necessary and required in the overriding interests of the children. Only indirect contact

would be in their best interests at this time, but I hope in the fullness of time the children's emotional and psychological health is such that they can process their experience and come to a place where they are more resilient and have the capacity to safely have a direct relationship with their father.

63. In coming to these conclusions, I have had regard to the children's and the father's right to family life. Although the remedy sought by the mother is severe, it is one that is proportionate to the harm the children must be protected from. It is one that is consistent with the arrangements for GK.
64. Given the nature of the relationship that will take place between the children and the father, and given the findings I have made as to the father's past conduct, I conclude that in the exercise of certain aspects of parental responsibility, particularly day to day decision making concerning their health and engaging them in particular schools and education, it is necessary and in the children's best interests for the mother to be the person who makes those decision without needing further consultation to the father.
65. That is the judgment of the Court.