Neutral Citation Number: [2018] EWFC 79

Case No: BS18P50511

IN THE FAMILY COURT AT BRISTOL

Bristol Civil and Family Justice Centre
2 Redcliff Street
Bristol
BS1 6GR

Date: Friday, 16th November 2018

Before:
THE HONOURABLE MR JUSTICE HOLMAN
(Sitting in Public)

B E T W E E N:

NO

Applicant/father

and

JL

Respondent/mother

THE APPLICANT appeared in person
MISS GEMMA CHAPMAN appeared on behalf of the respondent mother
MISS SORREL DIXON appeared on behalf of the guardian

JUDGMENT (As approved by the judge)

MR JUSTICE HOLMAN:

1. These are cross-applications by both parents as to various aspects of child arrangements. Last week the father, who acts in person, sent several letters to the court or myself asking that the hearing be adjourned. There were two threads or themes to his letters. First, that some documents had been supplied late and that, as a consequence, his bundles were now in disarray and he needed more time in which to prepare. Second, that he required the services of a Turkish interpreter and the mother a Russian one, and consequently that the evidence and cross-examination, all via not one, but two interpreters, would take so long that the case could not be concluded in the three days allotted to it. I refused the applications. There was evidence from the child's guardian that the child himself is suffering under the stress of these proceedings. The hearing had been fixed for an appreciable time and a resolution is now pressingly needed.

2. In any event, the father's threads and themes proved to be groundless. He is a highly intelligent and focused man who rapidly demonstrated that he had a masterly grasp of the documents, the bundles, and the pagination. Although English is not the first language of either parent, each has lived here for a long time. They communicated with each other in English during the 10 years of their relationship and marriage, and English is the first language of their son. During the first day of the hearing, negligible use was made of either interpreter, and I stood them down at the end of the first day as being a waste of court funds. The father, in fact, has near-perfect English which he tends to deliver at great speed without stumbling. The mother's English is more broken, but I am quite satisfied that she understood every question and nuance, and I had no difficulty in understanding her answers and her position.

3. In considering the various issues in this case, save for that of a direction under section 91(14) of the Children Act 1989, I must, and do, make the welfare of the child the paramount consideration, and I must and do have regard in particular to the matters listed in section 1(3) of the Children Act 1989. When I make findings of fact I do so on the ordinary civil standard of the balance of probability. There is already a very full, typed, recent judgment in this case by His Honour Judge Wildblood QC, dated 9 August 2018, which sets out the history and the position as at that date. I will not repeat anything in that judgment, but take up the story from there. E is now aged 9.

4. I now have to decide three broad issues. First, how E's time is apportioned or divided between his parents. Second, whether each parent should be permitted to take him for

holidays abroad, and if so, subject to what safeguards. Third, whether there should now be an order under section 91(14) of the Children Act 1989 so as to remove or reduce the pressure of these very intense proceedings upon both the child and the mother for a period. There are certain other relatively minor or consequential issues, such as with which GP should E be registered.

5. I heard considerable oral evidence from both parents. As the father represented himself and has a forceful and dominating personality, I had the additional opportunity and insight of observing and interacting with him throughout the whole course of the hearing.

6. The mother struck me as an essentially honest witness and a sad person who has emerged from a relationship in which she was dominated and controlled by her husband, and is, even now, struggling to establish her independence from him. She said in the course of her evidence that after the separation her own adult daughter from a previous relationship had commented, 'Finally, Mum, you have come out of prison'. That is exactly how the mother herself feels. Her evidence, coupled with the demeanour of the father throughout the hearing, left me quite clear that during their marriage he exerted very tight financial and emotional control over her, and that he continues to try to do so.

7. The father is highly intelligent and, as I have said, demonstrated a masterly grasp of every detail of this case and the documentation. As the case wore on, it became more and more apparent that he is obsessive and strongly self-righteous. He has absolutely no regard or esteem for the mother, either as a mother or as a person. He is highly critical of her and every aspect of her life. His questioning of her was relentless, pushy, and seething with latent aggression. As a result, the hearing became very destructive. A concession which the mother made early on the first day, last Wednesday, was withdrawn by the end of the second day, yesterday, when she very obviously felt shocked and worn down by the father's aggression and very negative attitude towards her within the courtroom.

8. On the morning of the second day, the father called two witnesses. The first, Miss Murville Richards, had made a written statement, now at bundle page D61. It soon emerged that Miss Richards scarcely knew the mother and had never been to her home or met her within the community. Her own acquaintance with the mother's landlady, SL, was largely confined to casual encounters in the foyer outside SL's gym class at the leisure centre. Miss Richards said that what she had put in her statement was basically what the father, who is a work colleague, had told her. She said that it was just hearsay based on things that the father had said over a period of time. The father's calling of Miss Richards and his reliance upon her statement served to underline what deeply negative views the father harbours about the mother and her living circumstances, and his obsession that she is living in the home of (he alleges) a lesbian woman who drinks too much.

9. The father's second witness was Miss Saniye Kucukbalaban. There was no statement

from this witness and no advance notice of what she might say, but she had travelled from London and I permitted her to be called. She is a very pleasant lady and I had no reason to doubt her integrity as a witness. She was a girlfriend of the father many years ago, before he met the mother. It soon became clear that she herself had never met the mother. She had met E a few times in the company of his father, both in Bristol and in London. She began to retell trivial matters dating back to 2016, such as E (then aged about six or seven) reaching for a can of beer in a supermarket; and the mother telling him on the telephone, truthfully if thoughtlessly, that the day upon which he was having a birthday party with his father in London was not the actual date of his birthday. This evidence was trivial and historical and, frankly, served only to demonstrate the father's desire to blacken the mother by whatever means.

10. It is not in issue that E loves both his parents, wishes to spend time with both of them, and should spend time with both of them. There is no objective basis for concerns about the safety and adequacy of the practical care that each parent gives to him. Indeed, it is reported by the school, through the guardian, that his turnout and presentation there, and his hygiene, are always excellent. He attends school from the homes of each parent.

11. The child arrangements order currently in place is that made by District Judge Cronin on 5 April 2017, now at bundle pages B1 to 3. At paragraph 8 that provides, by consent, that E should live with both his mother and his father. In summary, the apportionment of the time spent with each parent, under paragraph 8(2), is that he spends alternate weekends during term time from after school on Friday until the start of school on Monday with his father; every Tuesday night with his father; and half of each school holidays with his father. There is slight imbalance with the half terms in that he spends two out of three with his father. He spends the rest of his time with his mother. This is not the mathematical equal division of time that the father would seek. He now asks for an order that the child lives with him (rather than with both his parents) and that the time he spends with both parents is equally divided with mathematical precision.

12. The mother, strongly supported by the guardian, considers that the present arrangements are not working well. E is being increasingly affected by the pressure his father puts him under and by the negative things he says about the mother. The mother, supported by the guardian, considers that the arrangement of spending Tuesday night with the father should in particular be removed, and that E should spend overall less time with his father during the school holidays. The particular reason for E spending every Tuesday night with his father is that on that night E attends Turkish school or classes for about one and a half to two hours after he has left his normal daytime school. The father has been in the habit of taking him. In fact, the father said those classes may, sadly, be closed due to financial cuts. The mother has agreed, and I will in any event so order, that for so long as those classes remain open, she will take E, or cause him to be taken, to those classes if he no

longer spends Tuesday nights with his father.

13. The evidence, including that of the guardian, leaves me in no doubt that the present arrangement of his spending Tuesday night with his father is unsettling and damaging to E. Every extra time he moves between the homes adds to the pressure upon him. The mother vividly described, and I accept, how E is argumentative with her after spending time with his father. E tells her that she has mental health problems, no brain, and no logic. Rather than hugging her, he tries to shake her hand. She said that it takes a few days each time for him to come back to being a normal boy of his age. There is no doubt that the father does consider that the mother has mental health problems. That features in his documents and featured in his questioning of her during the hearing. The father speaks negatively about the mother to E, E picks it up and, naturally, reacts to it.

14. At paragraphs 16 and 17, and 42 and 43, of her report dated 5 November 2018, the guardian, Mrs Karen Davies, very clearly describes her observation and opinion that E is becoming increasingly distressed as a result of the ongoing proceedings and the conflict between his parents. It is, in her opinion, causing emotional harm to him and, 'having an increasingly negative impact on E' (paragraph 43). At paragraph 42, Mrs Davies describes a damaging and potential long term effect of exposure to the negative comments and attitude of his father, which I am satisfied E does now emulate. Mrs Davies says, at paragraph 42, 'E is reported to be emulating the comments and attitudes of [his father] in his interactions with [his mother] when he returns from spending time with his father. If true [and in my judgment it is true], this is of concern as it has the potential for E to embed a way of relating to women that is controlling, derogatory, and disempowering. It is also likely to impact on his self-esteem. Every criticism levelled at one parent by the other can be internalised by the child who is a part of both.' This is echoed again at paragraph 51 of the same report.

15. Like His Honour Judge Wildblood QC, at paragraph 60 of his judgment dated 9 August 2018, I was impressed by Mrs Davies, whom I have not previously (so far as I can recall) encountered. During her oral evidence she displayed obvious wisdom and maturity. She has considered this case with considerable care over the past six months and her evidence and opinions are worthy of considerable respect.

16. The evidence leaves me in no doubt that the yo-yo effect of E spending Tuesday nights with his father must cease, whether in the week when there has just been a weekend spent with him, or in the other intervening week. It is clearly damaging to E and there is no justification for it, provided, as she will, that the mother ensures that he continues to attend the Turkish class. More difficult is the question whether, in substitution for it, E should spend the Monday night with his father when he has just spent the weekend with the father. In other words, whether the alternate weekends with the father should be enlarged from after school on Friday to the start of school on Monday, to extend to the

start of school on Tuesday, with E spending four rather than three consecutive nights with his father on alternate term time weekends. This would still eliminate the yo-yo effect and would have the overall effect that in every 14 days E sleeps on four nights with his father and 10 with his mother. This was a possible outcome which I canvassed with the mother during her evidence-in-chief. She asked to think about it, which she did, and her counsel, Miss Gemma Chapman, told me later on the first day of the hearing, on instructions, that the mother would support and agree to the suggestion. This was, however, the 'concession' to which I previously referred, which the mother withdrew at the close of the hearing on the second day in the light of the father's sustained antagonism towards her during the hearing.

17. In my view, the arguments for and against E spending alternate Monday nights with his father, as an extended alternate weekend, are relatively finely balanced. On the one hand, E loves his father. He does wish to spend time with his father. It remains agreed that he should and will spend time with his father. Bluntly, if the father is going to so abuse his parental role and duty as to speak ill of the mother to E, or in his presence, he can as well do so in three nights (Friday to Monday morning), as in four (Friday to Tuesday morning). On the other hand, if, as I am satisfied is the case, the father is so demeaning the mother as to be emotionally damaging to E, then the shorter the period that E is exposed to that damaging behaviour the better, consistent with enabling him to spend reasonable periods of time with his father.

18. Until the mother's further change of position was announced late yesterday afternoon, my position on this issue was that as these are private law proceedings, then if both parents remained agreed on the alternate Monday nights being spent with the father, that outcome would, by their agreement, follow. It would be a very extreme course for a court in private law proceedings to try to forbid and prevent an extra night of contact upon which both parents were agreed. Despite my giving that indication, it remained the position of the guardian during her own oral evidence <u>before</u>, I underline the word 'before', the change of mind was announced or communicated, that it was in the best interests of E to stay with his father on only the Friday to Sunday nights, and not the additional Monday night as well. Mrs Davies said during her oral evidence, 'Having listened to all the evidence, I do remain very concerned about the emotional wellbeing of E and the potential harm that could be caused to him by the father's apparent views of the mother… The father's views of the mother have not softened in any way. I am even more concerned about his capacity to promote the mother in a positive light after what I have seen and heard during the course of this hearing. …This child's presentation has changed dramatically in the short time that I have known him, as well as changed from the original section 7 report made in 2017. That indicates to me the increasing amount of stress he is under…'.

19. On a decision which is, in my view, relatively finely balanced I have decided that I should, on this issue, heed and respect the view of the guardian who knows this child; who has observed the damaging and deteriorating effect of the contact upon him; and whose own opinion and judgment I consider worthy of respect. I cannot, in the last analysis, provide any rational basis for disagreeing with her. This is not abdicating the decision to the guardian. It is factoring into my own decision and exercise of judgment and discretion, the opinion of the guardian who knows the child and is well-informed about the case, and whose opinion I respect. I accordingly rule that during school term time E will spend time with his father on alternate weekends from after school on Friday to the start of school on Monday.

20. I turn next to the formulation of with whom E is to live within the meaning of section 8 of the Children Act 1989. The current order provides that he is to live with both his parents. In my view, that order has been shown not to be workable. It has empowered the father to create such problems as changing the registration of E with a GP, and obtaining part of the child benefit behind the back of the mother. In the light of my above ruling, it is in any event a fiction. If E spends three out of 14 nights with his father and 11 with his mother in every fortnight, he is, on any sensible use of language, living with her and spending time with him. Further, if there is to be any chance of E visiting Turkey, to which I refer below, it is vital that the English court order clearly and unequivocally expresses that it is his mother with whom he lives.

21. It is also appropriate that the order should express that he lives with his mother. The guardian said that her view, and the view of the school, is that the mother supplies a more holistic style of parenting than the father. The guardian is well aware of all the complaints the father makes with regard to the mother and her circumstances – the alleged lesbian landlady, the beer, the smoking (the mother says she has now completely given up), and her allegedly immoral lifestyle – but Mrs Davies said that there is no evidence that she can see that the mother is parenting E other than in an acceptable way. The father, by contrast, does not do so because of his persistent antagonism against the mother, which he communicates to the child. For these reasons, and in agreement with the guardian, I will now order that E shall live with his mother.

22. I turn next to the apportionment of the school holiday and half term periods. It remains agreed that in each of the shorter school holidays, at Christmas and Easter, E should spend half with each parent, being roughly a week with each. The current order provides that the first half of those holidays should be with the mother and the second half with the father. That approach does not appear to have caused difficulties and I will repeat it as the default position. Like all provisions as to contact, it is capable of being varied by the prior written agreement of both parents. In relation to half terms, the current order does provide that the whole of two out of three half terms should be spent with the father. It

seems right and more appropriate that the half terms should be evenly divided. There are two possibilities. One is that E spends half of each half term with each parent; the other is that he spends the whole of each alternate half term with one parent or the other. Earlier this afternoon, after brief discussion, both parents indicated that their preference is that he should spend the whole of each half term alternately with them. That will have the effect that from one year to the next he spends different half terms with each parent.

23. More problematic is the apportionment of the six-week school summer holidays. The current order provides that they be spent as follows: the first two weeks with the mother, then a week with the father, then a week with the mother, and then two weeks with the father. That is, of course, an overall equal division and does include a two-week block with each parent. Both the mother and the guardian now contend that the total time spent with the father during the school summer holidays should be reduced from three weeks to two weeks. The guardian accepts, or agrees, that those two weeks may still be in one consecutive block. The mother contends that the father should have two one-week blocks spaced during the overall holiday. On this issue I do take a different view from that of both the mother and the guardian. The mother likes to take E away for a summer holiday and his father must be in a position to do so as well. It is too restrictive of E's own time with his father not to be able to have one fortnight's holiday a year with him, particularly as, as I will later describe, there will be a direction under section 91(14) of the Children Act 1989 until October 2021. Therefore, today's order is making provision for school summer holidays until he attains the age of almost 12 (he will be 12 in September 2021). I note, too, that it is over eight months from now before the first school summer holiday arises, by which time I sincerely hope that the current conflict and stress will have diminished. In agreement with the guardian, I consider that there should be one two-week period with the father during each school summer holiday.

24. The next question is whether, additionally, he should be able to spend one further week with his father, reflecting and repeating the essence of the existing order. In my view he should. This is a boy who will now spend significantly longer periods with his mother than his father in school term times. If, during the six-week school summer holiday, he can spend only one fortnight with his father, there will inevitably be quite long periods when he does not see his father at all. Further, if he spends only two weeks with his father, but a month in aggregate with his mother, there will be a stark imbalance which he may find increasingly hard to understand, and may resent, and which may itself convey an inappropriate message to him that in some way his father is less worthy than his mother. For these reasons I will order that the school summer holidays are apportioned as in the existing order. I stress again that the language of my order will be the default position. It will be open to the parents, by prior written agreement, to vary which parts of the holiday he actually spends with each parent respectively.

25. The order will contain my ruling on certain specific issues and consequential matters which have arisen during the hearing. The orders in relation to the Turkish school, the availability of Champions' League on the mother's television, the saying of prayers if he wishes, and smoking, are all agreed and self-explanatory. In the light of the new live with order, it is clearly more in the interests of E that he should be registered with the GP practice nearer to his mother's home, where she herself is registered; and she should receive and retain the whole of the child benefit. Her own net income of about £16,600 per annum from all sources (including in that the whole of the child benefit and also maintenance from the father) is less than that of the father, whose take-home pay is about £21,300 per annum, and she clearly should retain the whole child benefit.

26. I turn now to the issue of holidays abroad and removal from the jurisdiction. E's mother is Latvian by origin and descent, and she remains a citizen of Latvia and of no other nation. His father is Turkish. E himself has dual citizenship of the United Kingdom and Turkey. Foreign travel generally broadens the mind and enriches the experiences of any child. Provided his safe return can be assured, it is very much in E's overall best interests to be able to visit and spend holidays in both Turkey and Latvia, both of which he has visited before, and in both of which he has family and relations. It is in his overall best interests to be able to nurture both rich strands of his cultural heritage. There are currently areas of Turkey to which it is unwise or unsafe to travel, but I have no reason to suppose or fear that the father would knowingly expose his son, whom he adores, to danger.

27. The issue on this aspect of this case is the risk of non-return. The judgment of His Honour Wildblood sets out very fully the history of the proceedings which have been taken and which subsist in Turkey. The current position remains that the order which was made in Turkey on 14 March 2017 remains in force. Although it is an interim or temporary order, it is the subsisting order and it gives custody of the child (wrongly translated as guardianship) to the father. There was apparently due to be a further hearing in Turkey very recently on 25 October 2018. The father says, although I have absolutely no evidence other than what he says, that that hearing was adjourned and non-effective due to the non-availability of any judge that day.

28. In his judgment of 9 August 2018, His Honour Judge Wildblood set out at some length, and with accuracy, the law in relation to permitting children to travel abroad when there is a risk of non-return. It is necessary for the court to consider the magnitude of the damage which the child might suffer if he was not returned; the magnitude of the risk of non-return; and what safeguards may be put in place to minimise the risk of non-return and/or facilitate the rapid return of the child through legal means taken in the foreign country.

29. In the present case, the harm which would be done to E if he was retained in Turkey

would, in my view, be very great and could, without hyperbole, be described as potentially catastrophic. His connection with his mother, with whom he lives and to whom he is well attached and loves, would be abruptly severed for an unpredictable but potentially very long time indeed. He would be abruptly kept from his school here, where he is well settled and where he performs and achieves well. He would be abruptly kept from the home environment in Bristol where he has his friends and where he has so far lived for all his life. Those are risks which must be strongly guarded against.

30. In my view, there is in this case a distinct, though unquantifiable, risk of non-return if the father were currently, or in the foreseeable future, to take E to Turkey. It is perfectly true that the father has lived in England for 20 years. He has acquired British citizenship. He has a good and settled job. He does not, however, own his own home nor have any assets or property here at all. He said that he has no savings but does have debts, mainly to his brother. There is, therefore, no compelling anchor here, save for the lifestyle that he has chosen to lead here. It was totally unnecessary for the father to commence proceedings in Turkey, and chilling that he obtained, and to date has done nothing to vary or remove, the custody order there. He holds the mother in low esteem bordering on, if not actual, contempt. He will inevitably be displeased and disappointed by the outcome of this hearing. Although it is true that he did bring E back from Turkey in summer 2017, I consider that the risk of his retaining E in Turkey now is unacceptably high. I am prepared to say that it is less than probable, in view of his 20 years of living here and his British citizenship. But in my view there remains a definite and distinct risk that if the father can take E to Turkey, he might then retain him there, either by prior planning or on impulse.

31. Since the hearing before His Honour Judge Wildblood, evidence has been obtained from the jointly instructed expert, Dr Karen Akinci, whose report dated 11 October 2018 is now at bundle pages E39 to 55. Dr Akinci also attended and gave oral evidence since she happened to be passing through England for a few days, on her return from an event in the USA to Turkey where she lives. She explained that she herself is British and of Welsh origins and upbringing, but she has been married for many years to a Turkish citizen who is also a lawyer there. Her qualifications and experience are set out in her report. I was very impressed indeed by Dr Akinci. She displayed outstanding expertise and familiarity with international child abduction, and the law and procedures in Turkey, and the mechanisms in Turkey for reducing child abduction. I have very high confidence both in her competence and expertise, and in her ability to do all which can be done in Turkey to put in place the maximum achievable safeguards.

32. Her evidence is, in essence, that if the child were to be retained in Turkey while the existing, or any other, Turkish order remained in place which confers custody, whether solely or jointly, in the father, the mother would not be able to recover him, whether

under the Hague Convention or otherwise, without, at best, a prolonged legal battle lasting several years and costing many tens of thousands of pounds, which the mother could not possibly afford. Dr Akinci said that the maximum safeguards which can be achieved are the steps which I list in my order. She said that if she was instructed to do so by both parents, she could seek to take those steps and put in place the orders there listed. These include the requirement of the father making a fresh sworn statement before a Turkish judge at the Turkish Embassy in London. The one which he swore on 8 August 2018 (now at bundle pages D246 to 250), as well as being out of date, contains significant legal errors in the text of what he actually swore to, at bundle page D249. It refers to a criminal investigation, but on the state of the Turkish orders which subsisted on 8 August 2018 and still subsist now (viz giving custody to him), there would be no crime and no criminal investigation. The language of the sworn statement therefore requires to be revised or approved by Dr Akinci.

33. Dr Akinci made clear that, even with all the proposed steps and safeguards, there can be no guarantee of return, not least because even under the Hague Convention there are residual discretions in the court and she cannot predict how a judge would later exercise them on whatever evidence was presented to him. She did, however, say that despite the well known upheavals in the Turkish legal system during 2016, when a large number of judges were dismissed, she does now rely upon the integrity and independence of the Turkish legal system, and does have confidence in it. Dr Akinci said that if she was instructed to carry out all the steps she described, and if she was able to do so, she would be willing to certify, when they had been completed, that in her opinion the maximum safeguards that can be obtained had been obtained.

34. I cannot reasonably expect Dr Akinci to act without charge, particularly as there will be such disbursements as travel costs and court fees. She estimated that the total cost in disbursements and her own legal fees would approximate to about £2,500 sterling. That cannot be funded out of English Legal Aid, since Legal Aid does not extend to foreign legal proceedings. I am afraid that if the father wishes to take his son to Turkey he will have to find the means to fund Dr Akinci first. The father said that in any event he owes debts to his own brother for the legal work done by his brother in Turkey. He must now fund the consequences of unscrambling the grave situation which he, or his brother on his behalf, has so unwisely now created.

35. If <u>all</u>, I underline the word ‘all’, the steps which are listed in my order are taken, including, very importantly, the father swearing an undertaking to a judge here in Bristol upon the Quran shortly before a holiday, then on (I stress) the evidence currently before me I consider that he should, during his holiday periods with E, be permitted to take him to Turkey. I cannot say that all risk is eliminated and that prompt return is guaranteed, but if that degree of certainty was required many children would be denied enriching trips

or holidays abroad. A balance has to be struck and some risk, even of non-return, may have to be taken. I cannot require the father to put up a bond. He has no means or source of funds with which to do so. There cannot be 'one law for the rich and another for the poor,' I cannot, on this ground, deny to the son of a man of low means the prospect of holidays in the state of his descent, when it would be allowed if his father was more rich and could put up a bond.

36. The mother would like, if she can afford it, to take E from time to time to Latvia. In my view any risk of non-return by her is very low, although I cannot exclude it. Powerful factors against non-return are her adult daughter and her grandchildren who live here. She, too, has made a settled life here, but she is not British. The possibility exists that she, too, perhaps as an escape from the control of the father, might decide to remain in Latvia. In her case there is no existing order and proceedings in Latvia, and in my view the safeguards in my order (to which she agrees) are appropriate and sufficient.

37. I turn finally to the application for an order under section 91(14) of the Children Act 1989. This is requested by the mother and recommended and supported by the guardian. On such an application the welfare of the child concerned is weighty but not paramount, as considerations of justice and the constitutional right of access to courts are also engaged. Such orders should only be made exceptionally and on strong grounds, and never routinely simply because there has been a stressful period of legal proceedings. In my view, the history and intensity of these proceedings to date, and the damaging impact of them upon E, as reported by the guardian, are such that he, as well as the mother, does now require respite. This case is an exceptional one which does fall well outside the norm of contested private law proceedings. Although the father will be displeased and disappointed by the outcome of this hearing, it still does afford to him considerable time with his son, and there can be no justification for revisiting the child arrangements for a period unless unforeseen circumstances arise. If they do arise, either parent may apply to the court for leave to make a further application.

38. In my view it is necessary for the welfare and protection of the child, and justifiable and proportionate, to make a limited order under section 91(14) in the terms of my order. It precludes without leave further applications for just under three years (when the child will be just 12) in relation to the child arrangements. It does not preclude any further application in relation to travel abroad, nor in relation to any other aspects of parental responsibility which may unexpectedly arise.

39. It is my fervent hope that as this painful hearing recedes, both parents will begin to feel able to put past conflicts behind them and focus on being good parents to their son, to whom each has so much to offer. He is an able and high achieving boy with great prospects for his own future. But he is on the cusp of potentially irreparable and lasting harm unless both parents join in holding the other parent in good esteem, respecting him

or her, and enabling their son to move fluently and happily, and without stress or pressure, between them. I urge them both to take up the offer of attendance at the Separating Parents' Information Programme which Mrs Davies has offered to them. There will be an order that they must attend that programme. It cannot be enforced but, as I understand it, the making of such an order is the trigger for Cafcass providing attendance at a session to them.

End of Judgment

Transcript from a recording by Ubiqus
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