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IN THE FAMILY COURT AT COVENTRY

C v C (parental acrimony) Neutral citation [2022] EWFC 182

Coventry Combined Court Centre
140 Much Park Street
Coventry
CV1 2SN

Date: Wednesday, 20th April 2022

Before:

DISTRICT JUDGE MOAN

Between:

**COVENTRY CITY COUNCIL
and**

Applicant

**LC
and
AC
and**

**THE CHILD
(Through His Children's Guardian)**

Respondents

MS M CUDBY appeared for the **Applicant local authority**
MR P WAUCHOPE appeared for the **Respondent Mother**
MS EVELEIGH-WINSTONE appeared for the **Respondent Father**
MS S GAYNOR appeared for the **Guardian**

JUDGMENT

DISTRICT JUDGE MOAN:

1. The proceedings involve a young man called KM. The papers seem to reflect that he was born on 7th October, but I know it is 7th January 2015, which means that he is 7 years of age at the time of this hearing.
2. His mum is LC. She is represented by Mr Wauchope for the purposes of this hearing. Father is AC represented by Ms Eveleigh-Winstone. The local authority who brings the instant case is represented by Ms Cudby and the guardian, Ms Geraghty, instructs Ms Gaynor on her behalf.
3. This is my judgment after hearing four days of evidence. There have been two hours of submissions this morning. This judgment is given orally, having considered the evidence in the bundle and, indeed, the oral evidence. The bundle ran to some 824 pages.
4. These private law proceedings began with father's application on 24th April 2019 for a child arrangements order. During the currency of those proceedings, Her Honour Judge Watson made an interim care order on 1st December 2020 and thereafter the local authority applied for a care order. At all times during the public law proceedings the child has lived in a shared care type arrangement and the clear focus of these proceedings has been the parents' relationship with one another.
5. There have been a number of applications previously made in respect of this child. I am unable to give you a history or exactly how many. I am aware that prior to the private law proceedings that predated the public law proceedings, a child arrangements order was made on 8th May 2017, which stated that the child had been exposed to parental acrimony, different parenting styles and the parents could not communicate with one another. That was an issue even then.

6. Even before these proceedings became public law proceedings an expert was instructed to look at whether mother was influencing the child. The expert, well known to me, Dr Carritt-Baker, is an expert in alienation cases and he had cause for concern that the child might be influenced by mother's thoughts and beliefs, although there no fact-finding hearing took place so, of course, I remind myself that those views were that of Dr Carritt-Baker, not necessarily ones adopted by the court. Dr Carritt-Baker was also of the view that mother could be implacably hostile to contact if her thoughts and beliefs were false.
7. The position at that time appeared to be that the child was spending time with each of the parents, although I know from the chronology that has not always been the case and it is difficult to ascertain how the allegations of influence had manifested on the arrangements themselves. It was clear that the report was focused on the harm suffered by the child, but, as I go on to say, things have moved on significantly since that period of time because the child has since spent equal time with the parent and any issue of stopping contact with father is a long and distant memory.
8. The papers reflected a chronology of competing allegations made by the parents about the care of the child in the other, including some really serious matters. Those allegations in the proceedings have not been substantiated. There is poor communication and father considers that information is not shared with him. Father's partner, S, has been dragged into the dispute and the parents have not been able to agree how to discharge their parental responsibility on things such as immunisations.
9. KM is completely aware that his parents are in conflict and simply do not like one another. What an awful position for that child to be in, knowing that the two most important people in his life dislike each other explicitly and intensely.

10. Dr Carritt-Baker highlighted the low likelihood of success of family therapy and that there would be considerable difficulty around shared care. Dr Carritt-Baker considered that there was little to suggest that father would interfere with KM's relationship with his maternal family. However, as I have indicated, the landscape appears to have changed significantly since then. Therefore, I found the report to be of less value in the context of the proceedings where we are now in the light of the more contemporaneous information that is before this court.
11. The child's school in this case has been a protective factor. The school has tried to empower KM by taking charge of his possessions to prevent them being used in a tug of war. They have sought to assist the parents and offered to mediate. The school is well aware of the parental conflict and has observed KM's behaviour throughout.
12. When cases are started by the local authority, they were seeking a public law order, they set out their concerns in what we would call a threshold document. There is such a document in this case and it is fair that my summary of that is that mother had accepted that KM had witnessed altercations and inappropriate behaviour between the parties, mother accepted that the relationship had broken down between her and father, mother accepted using cannabis at low levels. Both parents were willing to implicate the other in their response findings. Father accepted nothing that referred to his own culpability.
13. The local authority say that the child had been subjected to the warring between the parents. As all parties are proposing the making of a child arrangements order, that threshold document becomes less important now, save that it feeds into the issue of harm for the purpose of the evaluation under the welfare checklist.

14. Dr Foley had undertaken a psychological examination of the child in late 2020. The child struggled with concentration and restlessness. She observed difficulties in relation to compliance and pushing boundaries with his mother.
15. KM found it difficult to give information about his parents, which seemed to indicate that he was suppressing his views about his family life. He was likely left with anxieties in his own mind. There was warmth in the child's relationship with each parent. However, the child's behaviour towards mother was controlling, indicating a lack of security within that relationship. This was reinforced by mother's own views that the child was clingy and needed frequent reassurance. That controlling behaviour was not observed when the child was in his father's care. The child presented as overactive, restless and required authoritative parenting, clear structures and routines to be in place.
16. KM struggled to talk openly with professionals about his relationship and it could be that he had had enough of talking to professionals, or that he had learned to suppress his own feelings in favour of others.
17. The issues the child presented with, namely, his feelings of insecurity, are important to report the context and, most importantly, the difficulties the parents have in communicating together about his needs. It is that issue that Dr Foley considered that needed to be addressed. Family therapy was recommended.
18. Whilst Dr Foley could not be certain about what factors have contributed to KM's lack of security, that often stemmed from when parenting was not consistent or predictable. KM would be worried about the difficulties between his parents and that those disagreements related to him. Quite apart from mother's coping strategies, it was highly likely that he had a sense of responsibility for the difficulties between his

parents. Given the difficulties between the parents and the difficulties in terms of communicating in respect of the child, Dr Foley considered that a shared care arrangement was unlikely to be in the child's best interests. During term time the child should reside predominantly with one parent, with contact with the other parent at a weekend. School holidays should be shared.

19. Dr Foley went on to say that children who came from authoritative parents were more likely to become responsible adults that tended to be happy and successful, good at making decisions and evaluating safety risks. Children who grow up with permissive parents were more likely to struggle academically, have behavioural issues and did not appreciate authority and rules. They may have low self-esteem and report a lot of sadness. Authoritative parenting is likely to lead to an improvement in the child's overall presentation. It is worth noting, however, that the child would benefit considerably knowing that his parents' rules would meet his needs regardless of any living arrangement and at the very least be similar, and that he can talk freely with one parent about things in regard to the other parent without the parent becoming upset or angry.
20. The independent social worker, Miss Bibi, undertook parenting assessments of the parents. She began her parenting assessment of father and his partner on 11th March 2021. Both father and his partner engaged fully in the process. Miss Bibi was clear that father continued to be entrenched in the dynamics of his relationship with mother and that sometimes he failed to consider how he has as a parent harmed the child with his behaviour. She said that father's partner appeared to compensate for this because she offered reflection from which father appeared to build upon.

21. The school described mother as “on her guard” as to what she should say or not say and that father liked to talk about himself and did not appear to have dealt with the past or moved on from what had happened to him.
22. Miss Bibi observed that the child behaves differently in the company of each parent. The child was loud and interrupted mother, yet well behaved and quieter with father.
23. The report was largely positive. There were concerns about father’s ability to co-parent with mother. Father had not appreciated how cannabis and mental health difficulties could impact upon the care that mother gave to the child or that he had failed to protect the child in the light of those concerns.
24. She said that father and his partner had deficits in their parenting and ensuring stability, safety and emotional warmth. They recognised the need for change and were willing to engage with agencies to secure that. Miss Bibi was concerned that the child was not fully allowed to explore his own cultural identity.
25. A similar parenting assessment was started by Miss Bibi of mother. Mother had sickle cell disease, which she managed with medication and she was supported by her own family. Mother suffered from depression and anxiety, which had got worse as a result of the ongoing proceedings. She got particularly worried when the child stayed overnight at father’s, because she worried the child would not come home.
26. Mother accepted that she had smoked cannabis recreationally and told the social worker that the last time she smoked it was October 2020. She said she had not used cannabis in the child’s presence and she had used cannabis for the management of her pain. Later in the report mother said that she used cannabis to minimise pain and that she did not use it regularly.

27. Miss Bibi had some concerns about the dynamic between the child and mother, who used physical chastisement. There did not appear to be the same routine and rules in mother's house that there were in father's house. Miss Bibi considered that mother would benefit from attending the PPP course to help manage routines and behaviour.
28. Miss Bibi found that mother minimised the local authority concerns and had failed to consider how using cannabis would impact on the care that she offered to KM. She also focused around the behaviours of father and his partner, which had resulted in her acting out in the way that she had. She had failed to consider how that behaviour had emotionally harmed KM over the years. She perceived that father and his partner did not treat her as an equal.
29. Miss Bibi did updating reports on 14th July 2021, having received the psychological assessments of Dr Foley in May. Miss Bibi was of the view that mother had demonstrated that she could meet the child's basic care needs, stimulation and emotional warmth. There were, however, concerns relating as to how she managed behaviour and there appeared to be inconsistency with rules and routines for him. There was a difference in the parenting styles adopted by mother and father. Miss Bibi said that KM did not have the structure he required to repair the disruption he experienced in his early childhood and, as he grew older, she was not confident the mother would be able to consistently provide the guidance that he required.
30. Mother's use of cannabis was uncertain, but there was a correlation between cannabis use and mental health difficulties. Whilst mother had committed to the Parenting Apart programme, she had declined to participate in family therapy because she felt it was not necessary and would put pressure on her.

31. Miss Bibi endorsed Dr Foley's recommendation for the child to be predominantly cared for by one parent. She was unable to recommend mother to be the main carer for KM.
32. In the addendum report of father, father said that he would promote the child's black heritage through his relationship with extended paternal family members, photographs and Facetime. He was also willing to engage in life story work. Father said that he believed there had been an improvement in communication with mother through the Parenting Apart programme facilitated by Clare Fields and that she was open to family therapy.
33. Miss Bibi said there were differences in the parents' parenting style and as the child grows into a young person, he needed consistent guidance and boundaries to address any behaviour which might result from the trauma that he had experienced as a child.
34. Miss Bibi said that mother had shared that she felt under pressure listening to father's voice and was not willing to engage in family therapy, which aimed to improve the parenting relationship. She considered it likely that mother would not promote effective contact between father and the child if placed in her care and there were also concerns about father's ability to fully and sincerely promote contact between the child and his mother. She recommended that the child be cared for by father and his partner, with contact to mother once a fortnight.
35. Miss Bibi gave oral evidence at the hearing. She described father as being dismissive of the concerns and that father always presented as moving away from the relationship. She said that father had thought about the concerns about not allowing the child to embrace his cultural heritage and that he would engage in life story work to promote his cultural identity. She was clear that father could only see what mother

had done wrong and that he had not impacted on the child. She did not say that there was a lack of warmth between the child and his father.

36. She said it was difficult to get father to open up at first. She considered father's partner, S, to be insightful. She encouraged father to see how things could be done differently and to see matters from mother's point of view. Miss Bibi said that the relationship between the parents needed to be worked upon.
37. Miss Bibi was critical of mother because she observed a lack of routine with the child. She described her as not being consistent and that she would not follow through with consequences. She said KM was at risk if mother did not implement boundaries. Mother had described the child as being aggressive. Being permissive would not give the child boundaries and structure. That would become a much bigger issue as he became older. The strategies needed by mother were not in place. The child could do whatever he wanted to do. She accepted that there was nothing in the school reports to suggest that the child was suffering as a result of the current shared care arrangement. She said mother had not explored any other way of managing him, either by tapping him on the shoulder. She had no routine at weekends and during school holidays.
38. Miss Bibi said both parents were able to meet his basic care needs. She said that mother could not meet the child's long-term needs. She was concerned about mother's cannabis use and her own emotional regulation. When asked about how mother's cannabis use might affect her parenting, Miss Bibi said that mother was emotional and upset, shouting and that continuous cannabis use could be an issue.
39. Ultimately, Miss Bibi stood by her recommendations. She said she was asked to make a decision about the primary carer and that she was influenced by the

psychological reports. She said that the parents would struggle to share parental responsibility. She said that in the first six months after removal, contact to mother should be limited to give the child time to settle. She said that the child would struggle to regulate his emotions.

40. Even though the parents had worked with Clare Fields to improve their communication, it had not made any real difference. She said that communication remained a concern. She accepted that the child's view was important and that he wanted to share his time with his parents, but Miss Bibi said her focus was on the future. There were already issues with his behaviour. She said that the short-term challenges would produce long-term benefits.
41. Miss Bibi said that there were concerns about mother and father. She was aware of the concerns about father's inability to promote a relationship with mother. She was aware that mother had previously refused to undergo family therapy. Miss Bibi considered that the child needed extensive support from his parents and that he needed structure. She said that the shared care arrangement was not working. She said that father was able to provide the child with emotional support and that father was open to accessing further support.
42. A short period of work was undertaken with the parents between March and May 2021 to support the parents being able to communicate with one another. I had short reports from Clare Fields, from the Parenting Apart programme, which detailed the type of work that was being done and what the objectives of that programme were, namely, to improve communication.
43. Dr Foley completed a psychological report of the parents in May 2021. Routines and boundaries were different and confusing for the child. She said that father was

dismissive about concerns relating to him. He recognised the different parenting styles of the parents. Whilst he was able to meet the child's needs, he struggled to see aspects of mother's parenting that were good and this led to a concern about his ability to fully and sincerely promote a relationship with mother. The only means of improving this relationship was family therapy.

44. Mother was suffering from mild to moderate depression and anxiety. Mother was aware that at times she struggled to parent due to her low mood, but her mental health was currently well-managed by medication. There was no indication that her levels of depression impacted on her parenting or on her inter-personal relationship with KM.
45. Mother had a good understanding of the local authority concerns. She struggled to see the impact on the child. Mother was able to prioritise the needs of the child. She had the ability to keep her feelings about father separate from the child.
46. Dr Foley's concerns lay more with whether father was able to promote the child's contact with mother. The balance of authority versus warmth was different between these parents. She said that shared care works if parents communicate and have the same boundaries and rules across the households. If the parents could not establish a health parenting relationship together, then the child should live predominantly with one parent and have weekend contact with the other every fortnight.
47. Dr Foley answered additional questions in her report dated 29th June 2021. There was little to suggest that mother had neglected the child due to her low mood. It was likely that there were times when she was less available emotionally as a result of her low mood. Dr Foley commended family therapy to enable respectful communication between the parties.

48. Having read the updating evidence, Dr Foley said in her oral evidence that she remained concerned about the level of difficulty between the parents and the impact on KM. The school was reporting a range of emotional issues and also that he was doing well in all areas. She said that the fundamental issue was the parents' inability to work together. She said that it was important to let go of the past and move forward to a place where the parents respect one another. They have a different point of view and they will need to work through that. Dr Foley had no concerns about the parenting capacity of the parents.
49. She acknowledged that it would be distressing for KM if the arrangements were to change. She said how that change was managed would have an impact and it was difficult to know the impact until the changes had run their course. It would be best if both parents remain positive.
50. She said that the parents could not let go of the past. Father was more focused on the past than mother. Mother was able to feel more positive about the child having a relationship with father. Mother knew that father would not harm the child. Father was more critical of mother's parenting.
51. She considered that the ongoing court proceedings and people asking the child about the situation and his wishes and feelings may well have silenced him. He had learned to suppress his wishes and feelings for fear of getting something wrong. It was important that the parents engage in some sort of intervention.
52. She echoed the concerns of Miss Bibi that father did not see any issues with himself and sought to justify his position. Her biggest concern was that father would struggle to promote a relationship between the child and his mother. He had a negative narrative.

53. She described mother as permissive on her parenting and that the child adored her. She said his home, even in a shared care scenario, was likely to be that with his mother. Mother had a much better level of insight and was reflective.
54. She said that the parents had different qualities. The child would miss out on warmth with his mother if the arrangements were changed. She was not clear that father recognised the importance of the child's heritage. She said that the parents needed to trust each other, especially when the child had said something that made them feel uneasy.
55. In terms of the child's presentation, Dr Foley was aware of remarks describing the child as hypervigilant. She said it was difficult to pin those issues down. She said he was generally well and there may be some indications of ADHD. But, whatever the source of the issues, Dr Foley said that the child needed authoritative parenting. If he did not have authoritative parenting there would be ongoing conduct and antisocial issues. There may also be low mood. She said that mother struggled to be more authoritative, but it was a skill that could be learned. She said that consistency was important. It was likely that the child would play off one parent against the other.
56. Dr Foley was cautious about recommending more work with Clare Fields at the same time as family therapy. She said it can be difficult to receive two interventions at once and that family therapy was the priority. She said that changes needed to be made now, while the child was pliable. She said she would be worried if these behaviours continued when the child was 8 or 9 years of age.
57. When cross-examined, or questioned, Dr Foley was able to weigh up the risks of doing nothing against the risk of influence if the child went to live with father. On reflection of those risks and noting the proposed plan of work from the local

authority, Dr Foley said that she supported no change in the arrangements at the current time provided that the work was done.

58. The social worker made her final statement with proposals on 7th January 2022. The child had been spoken to and wanted things to stay as they were, namely, the shared care. He got to see his mother and her family, he got to spend time with his father and his family. The child had half-siblings with each parent.
59. His head teacher, Miss H, considered a move to one parent would be detrimental for KM. When the child had unexpectedly stayed with father, he was upset and missing his mother. The shared care arrangements had been in place for quite some time.
60. The social worker highlighted that the child had witnessed parental conflict and that this would have caused distress to him. Positive steps had been observed through the Parenting Apart programme.
61. The social worker has been on long-term sick leave and so her manager, Miss P, gave oral evidence at the hearing. She said that both parents had different styles and that it was not unusual for parents to have different parenting styles. The child was keen to spend time with both parents. She was concerned if one parent became the primary carer because of the impact on the child.
62. She described the child as very close to his mother. She acknowledged that the first social worker had commented that the child missed his mother when at father's and wanted to live at his mother's forever. She recounted a discussion with the school, which said it was detrimental for the child to live with one parent.
63. Miss P was aware of the concerns about mother's permissive style of parenting. The social worker was not concerned about mother's style of parenting. Equally, the local

authority was not concerned about their being a lack of warmth in father's care. She confirmed that the local authority can deliver parenting support one to one. She reiterated that the parents needed to communicate, whether one of them was the primary carer or not.

64. Miss P had concerns about father promoting contact with mother. She was aware of the power dynamics between the parents. That had been factored into the final care plan and the child would see them equally. The child wanted the current arrangements to continue.
65. The social worker was aware of the concerns about mother's cannabis use and her mental health and considered that they did not impact on her parenting. Mother's cannabis use was considered to be minimal. She said it was not easier to do nothing when there were other options.
66. Miss P confirmed that the local authority decision not to fund mediation was based upon those services being available from the NHS. However, she did confirm that she would have another conversation about funding if that transpired not to be the case.
67. Father's final statement was dated 8th February 2022. He sought for KM to be placed in his full-time care, with alternate weekends to his mother. Father sought to undermine the headteacher's evaluation that change would be detrimental for KM on the basis that she was not an expert and did not have a lot of contact with KM.
68. He said that KM was still struggling with his self-esteem and this was evidenced during spells that the child was residing with mother. This was not the case when KM was in his care.

69. He said the social worker was not consistent with the school in terms of whether the parents' communication had improved or not and that she had ignored the experts' findings.
70. He said that KM had been exposed to mother's hatred of him. He reiterated the view of Dr Carritt-Baker that shared care was unlikely to work and that KM should move to a primary carer. He agreed with the written report of Dr Foley that shared care was not in the child's best interests.
71. He also supported Miss Bibi's recommendation and observations that mother was likely to be unwilling to engage with the work recommended. He said that mother failed to engage with the recommendations made in 2018 when the final order was made and had refused to engage in mediation. He said that there were ongoing issues with communication, which were ignored and disputes about the flu vaccination. He said his emails are often met with sarcastic or unhelpful response.
72. He criticised mother for throwing KM a birthday party on his birthday in the hour that she spent with him and described it as being unfair to KM and leaving him upset.
73. He was concerned that mother still used cannabis and believed that this would impact on her ability to care for KM.
74. Father exhibited messages between himself and the mother between August 2021 and January 2022. There are times when I considered mother's responses to be unnecessarily abrasive and inflammatory. Sometimes she ignored messages from father.
75. I saw that it was a struggle to get mother to engage in conversations about important issues, such as health. Despite his views about mother, he really tried to keep the

conversation positive and constructive. I was not able to say the same about mother's messages.

76. In his oral evidence, father said he may have come across too professional and abrupt to professionals, but that Miss Bibi was able to get him to open up. He said that communication between him and mother was still difficult and resolving difficult issues was a problem. He had raised the issue with the social worker in September 2021, but this had not been resolved.
77. He said that mother loved the child tremendously and that they had fun. He said there was nothing to suggest that he would not promote contact with mother. He said it was difficult to hear that mother remained fearful that he would take the child away from her. He said that the child needed to have a full relationship with both parents.
78. Father said that he had never been reluctant to do the work suggested. He was willing to engage in mediation. He said he was not entrenched in his previous relationship, but in the situation and the parents could move forward.
79. Father proposed that mother spent alternate weekends with the child and one night in the week. He suggested that mother had more holiday time with the child, but it was clarified that he meant two of the three half-term holidays with the other holiday periods to remain shared.
80. When asked how he would deal with the child's distress upon a change of residence, he said he would surround the child with love and support. He would answer the child's questions. He did not agree that there would be a significant break in contact, just a short break to allow the child to settle. He considered that change would be a long-term benefit.

81. When asked about his failings, father accepted that he should have communicated better around the child. He accepted that there had been hostility around the child and that the acrimony had a significant impact on KM. However, father also deflected the problem and stated that he could not communicate with mother without a telephone number or that communication was a two-way street. Mother was responsible for a heated exchange at the nativity play, he said. He and his partner had decided to take the child home after the play and mother wanted to spend some time talking to him. He had not communicated that to mother. He did not accept that the child would be exceptionally upset if he was to live with father. He also said he was not hostile to mother and that he had not spoken negatively to the child about his mother.
82. He adopted the advice of Dr Foley, stating that there was a short window to enable change, but he also rejected Dr Foley's oral evidence that the arrangements should stay as they are.
83. He said that mother struggled to manage the child's behaviour. The child was not aggressive in father's presence. He did not see the issue to be routines, but the child needed consistency and structure. Mother had real issues with engaging, he said.
84. He did not think that the child understood when he said that he wanted things to stay as they were. He may not want to upset either parent. He said that it was not helpful for so many professionals to be involved with the child. He said that the child puts on a brave face, but father thought he was struggling underneath. He said children said different things at different times to different people.
85. He said the local authority concern was not just about the parents not agreeing. They were about allegations that had been made. He accepted that at times he had lacked empathy for mother and could have communicated better.

86. Father was less accepting of the school evidence, stating that they were not professionals and they did not have an awareness for the future.
87. In mother's final statement dated 31st March 2022 mother stated that the child had become aggressive. He had argued in front of her and talked himself down. She believed that he had been exposed to things in the care of father, such as arguing between father and his partner, and had overheard adult conversations.
88. She said that father did not respect the child's heritage. She described father as controlling and gave KM's hairstyle as an example.
89. Whilst not clear from the statement, I understood mother's position to be supporting the local authority's plan as to the ongoing arrangements.
90. Mother accepted in her oral evidence that the child pushed her boundaries. She said that her strategy was to talk to the child and that he would listen to her. She said that she did not use cannabis, but put cannabis oil in her tea and not when she had the care of the child.
91. Mother said that she corresponded with father by email and that there should be more communication. She accepted that sometimes it took a few days for her to answer emails. She said the communication with father had improved. She said they were trying to get along for the child's benefit. Mother said it would be helpful to carry on with Clare Fields to improve communication. She said she was committed to working on that relationship in the future.
92. She said it was concerning that the child had not been allowed to express himself. She had a concern that father was not always warm with the child. She still feared losing the child to father.

93. She said the current arrangement were the best and were working well. She said that the child would be heartbroken if taken from her care.
94. She denied that anyone had taken issue with her parenting style previously. She did not accept that she needed parenting advice. She said that the child was showing off when he behaved poorly in mother's care, jumping over her and being rude.
95. Mother was a compassionate witness, but still dismissive of the concerns. She sought to persuade me that she would work with father. The messages between her and father at times were inflammatory and evasive. He repeatedly asked her questions about swimming and vaccinations and she chose not to respond. That appeared to me mum avoiding a subject matter where there was likely to be a difference in view.
96. Mother saw no need for parenting advice. I strongly disagree. The concerns from the social worker and the psychologist are that as he grows older, without having firm boundaries, the child's behaviour will deteriorate further and lead to further consequences for him. For example, suspension or expulsion from school. It will also be hugely confusing for him to transition from father's care to mother's care where there are a completely different set of rules. Noting the parents' inability to communicate well, that transition is likely to exasperate the issues as the child tries to play one parent off against the other.
97. The guardian, Ellie Geraghty, produced her final analysis on 1st March 2022. The guardian was aware that the school did not have concerns about the shared care arrangement or that the parents could each meet his basic care needs. KM had expressed that he wanted the current arrangements of spending equal time with his parents to continue, although he was reticent about talking about his family at all.

98. The guardian did not accept that there had been a shift in the parents' relationship, but the current arrangements could meet the child's needs and could continue while the parents did work to make their relationship better. She said there needed to be a balance for KM and to experience the best of both worlds.
99. The guardian did not agree with Miss Bibi's recommendation as she considered that father may not be able to promote a relationship with mother. It was important that the child had access to both sides of the family.
100. Miss Geraghty recommended a section 91(14) barring order due to the length of litigation and to force the parents to work together. The parents were encouraged to engage in mediation.
101. Miss Geraghty was clear in her oral evidence that both parents had deficiencies in their parenting. The recommendation she had made had not changed as a result of hearing the evidence at the final hearing. The guardian was still concerned about father's lack of insight in terms of his responsibility.
102. She said the parents brought different qualities. She was less concerned about the school reporting the child's hypervigilance, noting his age. She said it was not unusual for children to get distracted at school.
103. She was resolute that any change in the arrangements would be disruptive. There was no benefit in doing so. She acknowledged that the child suggested changes at two weekly intervals. Whatever the arrangements, these parents need to learn to co-parent. That responsibility would not be alleviated by nominating one parent as the primary carer. The child was reported to be doing well despite the circumstances.

104. In her oral evidence, the guardian was absolutely clear that the key was family therapy. Miss Geraghty said that both styles of parenting were important. She was aware that children can play one parent off against another. That is why there needed to be common ground between them and a parenting plan would be a good start. She agreed that mother needed to implement more authoritative aspects to her parenting.
105. She had concerns that the parents had a reluctance to address their deficits. She said if the parents do not address their issues things would deteriorate for KM and the child may not be able to live in either parent's care.
106. I found that Miss Bibi had heightened her concerns about mother's mental health and cannabis use when I compared her oral evidence to that in her written report and without the evidential basis for doing so. I consider that Miss Bibi felt that she needed to choose between the parents as to who would be the best primary carer and, having assessed the merits of each parent, proposed father to be that primary carer. I had less confidence that she had assessed mother's care to be good enough or not, as the case might be. I was concerned that the impact of change on KM had not been fully explored within that report.
107. Dr Foley was an impressive witness. She was not undermined during cross-examination and even reflected on her own recommendations. She was able to weigh up the risks of doing nothing against the risks of placing the child with father and exposing the child to a precarious relationship with his mother as a result of father's inability to promote that relationship. On balance, she was able to accept that the work suggested to improve the parents' relationship should be tried and that there should be no change to the current arrangements whilst that was being done.

108. Mother's evidence was less impressive on a number of topics. I found mother to be dismissive about the concerns in regard to her parenting. It was clear that she does not discipline the child or set rigid boundaries. That was evident from observations and her own evidence and, as the child gets older, her techniques will not work. The contrast between the parenting styles of the parents will widen and the child will be confused and likely play the parents off against one other. I had no doubt that mum needed to have some parenting support, despite her protestations that she did not.
109. I also found mother to be unnecessarily inflammatory in her messages to father. That was not conducive to co-operative co-parenting. I fully accept that mother experiences low mood and at times she may respond in a way that, on reflection, she may not wish to. That is the importance of reading and re-reading messages. It was evident from those messages, and father accepted the same, that when important issues were raised they were not resolved by messages, usually because mother either did not respond to them or refused father's request. Father accepted in his evidence that he raised an issue twice and then he left it, and that meant that important issues did not get resolved.
110. Father was more credible in a number of respects. He did not strike me as a man that was lacking warmth, but he was a man who valued structure, logic and routines. I was well aware of the nature of allegations that had been made against him in the past by mother and how long he had fought in the courts to spend time and have a relationship with KM. However, on occasion in his evidence he was evasive in answering questions and preferred to give his own narrative than answer what was being asked and he did not really accept his culpability for the current situation or the impact on KM.

111. I was left with grave concerns about whether these parents will actually be able to co-parent without intensive and significant support to alleviate their narratives about each other and to improve their communication.
112. I am concerned that family or systemic therapy is not on the table as part of the child in need plan. Without that intervention, these parents could remain stuck in conflict and KM could remain at significant risk of being impacted by that.
113. The school reports that there had been periodic concerns about KM. The school was well aware of the issues between the parents. The most recent letter, dated 30th March 2022, confirmed that KM was easily distracted, but was generally a happy little boy. He could lack focus at times and sometimes did not place nicely in the playground. But, overall, there were no significant concerns.
114. KM had expressed his wishes and feelings to the social worker, that he liked living with both his mummy and his daddy. He expressed that he enjoyed seeing both sets of families. The child has been consistent in his expressed wishes and feelings, save that initially he said that he wanted to live with his mummy forever and that he misses his mummy's hugs and kisses when he is with his father. Those comments were made in late 2020.
115. Whilst father casts some doubt over the child's wishes and feelings in the light of his age, there is little for me to doubt the veracity of what KM has expressed. His love for his mother in particular has been demonstrable but, of course, that does not mean that he does not have love for his father. I believe that he does.
116. This child is of an age where he needs his parents to make decisions for him and to provide him with stability and security. His basic care needs are met by his parents,

but his emotional needs have been impacted by the discord between his mum and dad and the particular deficiencies of each of them. He is generally doing well at school. There has been occasional disruptive behaviours and they have been dealt with as they occur. The school has been concerned about the impact of what is happening at home upon KM.

117. His mother gives him a warm and holistic childhood, where play and freedom of expression are key. She appears not to readily accept advice about her parenting, such as the suggestion that she implement a reward chart. He has close ties to his older half-brother, Shakeel, and a relationship with his extended maternal family. He clearly feels loved and listened to. But his mother does not instil sufficient boundaries for him and as a result he has struggled to self-regulate and his behaviour is noticeable poorer when with his mother, and that is because he can be.
118. As KM gets older, this ill-disciplined routine will not serve him well. Children need discipline. They need boundaries. They feel less secure if the boundaries are not there and behavioural problems can be exhibited at home and at school. The school is already somewhat concerned about his behaviour on occasion at school. That will get worse.
119. I am concerned that mother does not have the parenting tools at her disposal to implement. I am more concerned that she initially did not consider that she needs to modify her parenting style on occasion. She is wrong about that. She needs to implement boundaries. If she does not do so, the prognosis for KM remaining in her care is poor. It is likely that he would be moved into someone else's care.
120. Despite mother's reservations about father, they have been able to manage a shared care arrangement. There has been little evidence that she has influenced the child,

despite her reservations about father.

121. Mother also needs to work on her communication with father. I have already mentioned that mother sometimes did not respond to messages and can be abrasive on occasion. This makes the communication less meaningful and at risk of breakdown.
122. Father has historically maintained a negative narrative about mother. Again, I remind myself that serious allegations have been made and the parents have been unable to agree for quite some time.
123. Whilst father tells me that he has not been negative about mother in front of the child, the evidence also confirms a real lack of insight into his own behaviours and the impact on KM. Whilst father may not intentionally denigrate mother, this could happen unconsciously through his body language or other behaviour, or a simple response.
124. Father has been accused of not promoting the child's cultural heritage. Dr Foley referred to father shutting down a conversation about KM having a white family and a black family. There are issues about the oils that were used in KM's hair and the use of racist language. There is insufficient information to conclude that father does not promote his cultural heritage. Clearly, this is a part of the child's identity and it must be promoted. But this is an area where the parents also need to communicate. Mother is in a much better position to communicate about his cultural heritage than father.
125. Father continues to minimise or deny his role in the parental conflict and the impact on KM. He blamed mother or other professionals, or that he came across too formal at times.

126. To father's credit, he has tried to communicate frequently and meaningfully with mother through messages. I can clearly see that in the messages exhibited to his statement. But even he accepts that there is some way to go in terms of their relationship and communication.
127. The main fear of the professionals has been that father will not promote a relationship between the child and mother. Father denies this. This has not been tested yet as the parents have not been able to manage matters other than under the scrutiny of court proceedings for a number of years.
128. I am already aware that KM has had to suppress his own feelings and he may do that again if father is the primary carer and he believes he needs to do this to please his father.
129. To date the parents have managed the shared care arrangements. They have had oversight of the court. How well the parents fare after a final order is made, is yet to be seen.
130. I have not had to engage in the numerous allegations that the parents have made against each other. Mother has described father as controlling and has made allegations of substance abuse and sexual abuse. Father described mother as violent, unpredictable, regularly using cannabis, withholding KM from contact and withholding information from father. All of those are really serious.
131. It is easy for me to tell parents to move on, but I know that the reality is not that easy. They each believe that they are a better parent and have a negative view of the other. It is that negative narrative that must change and the parents need some professional help to get to that space.

132. These parents are very different people. Mother is emotional, freely expresses her love. Father is more logical and considered in his approach to parenting. Both of these are strengths and if only they could accept the positives from the other parent they might be able to appreciate the benefit they bring to KM's life and ways in which they, as a parent, may be able to improve. Instead, there is a power struggle as to who is the better parent.
133. The current arrangements are that a changeover occurs at school on a Monday and so there is no need for a hand-over during term-time. The arrangements have been in place since July 2018. KM has expressed a wish for those arrangements to remain in place.
134. The headteacher, Miss H, told the social worker that it would be detrimental for KM to live with one parent as the primary carer. Changing the arrangements would be extremely upsetting for him. A change would be detrimental to his emotional and mental wellbeing and potentially impact on outcomes in terms of learning, both academically and socially. His class teacher reported in September 2021 that he was settled and popular in class. KM has been very upset when he stayed at his father's unexpectedly during mother's week when mother tested positive for Covid.
135. The social worker in her final statement outlined the concerns about the negative impact on KM should the arrangements change. The parental acrimony will not suddenly dissolve if one parent becomes the primary carer. He would still be affected by different parenting styles.
136. The guardian considers that the arrangements should remain as they are now, as does mother. Father seeks to be primary carer of the child with alternate weekend contact to mother. A change in the arrangements would impact on the time that KM would

spend with his extended family. There is a power issue between the parents. Both consider that their style of care is better and criticise the other. To afford a greater share of the care to the other could impact on the carefully balanced relationship that they currently have. They both have deficits and the current arrangement manages those deficits by ensuring that they are balanced by the arrangements. In effect, KM gets the best and worst of each parent.

137. The parents tell me they are committed to the work that is outlined. There has been abuse and acrimony in these parents' relationship, allegations made against each other, things said in KM's earshot, and none of this should be happening.
138. In regard to different parenting styles, it is not unusual for parents, even those that live in the same household, to have different parenting styles. The issue here is boundaries and discipline. The local authority observe mother implement boundaries and routines. The lack of structure regarding free time is not something that they considered would have a significant impact on KM, positively or negatively.
139. Dr Foley observed KM to be aggressive and rude to mother, jumping on her back, even when she told him not to. Mother conceded that he had spoken to maternal grandmother like a piece of rubbish. Mother later gave detail of a similar incident concerning maternal aunt. No such issues were identified when KM was in father's care. Dr Foley's opinion was that the child was controlling to mother and this was indicative of his lack of security along with his clinginess. Dr Foley concluded that the child needed authoritative parenting.
140. Mother suffers from sickle cell disease and takes cannabis to alleviate her pain. She said in her oral evidence that this was cannabis oil in her tea. Mum's use of cannabis and her mental health were cited as issues, but the local authority was not concerned

about the impact of those on her parenting. Father was not concerned about the impact of her cannabis use on parenting when he was asked by Miss Bibi. Miss Bibi was very concerned in her oral evidence, although the basis for this was somewhat unclear.

141. Mother has suffered from depression for a number of years. There is little in the evidence to suggest that this has impacted on KM, but she needs to ensure that she remains of good mental health. Dr Foley said there was no indication that mum's depression had impacted on her parenting or her relationship with KM.
142. She has remained anxious throughout that father would not return KM to her care. That may be a barrier to her working positively with father. An order setting out arrangements and some certainty may give the mother certainty to move forward.
143. Concerns about mother's hostility to father and his partner have been emphasised. The social worker was of the view that mother managed her mental health and medication with support and there have been no concerns about her presentation.
144. There have been concerns about a lack of warmth in father's care, concerns that father would not promote a relationship between KM and mother. The social worker had observed father and his partner to be supportive and emotionally available to KM. The social worker was confident that father could meet KM's needs.
145. The latest social work statement, dated 7th January, remarks that KM is able to seek comfort from either parent. KM was seen to hug his father as soon as he saw him as part of the psychological assessment. I was not concerned about father's ability to provide emotional and physical affection. He is different to mother, but this is not a concern.

146. The impact on KM has been to suppress his feelings and poor behaviour at times, KM being aware that the arguments were about him. There has also been a confusing difference of regimes. It was upsetting to read in Dr Foley's report that when she spoke to KM on 23rd September 2020 about his family that his response was to immediately lower his head. In her view, he was having to suppress his own needs to deal with the situation that he found himself in.
147. I am concerned, having heard both parents, that neither really understands the impact of their behaviour on KM. The school Christmas production was a horrible display of how the parents could impact on KM. Both parents attended separately, father had care of KM. KM spoke to his mother before the production, but not afterwards. Father was concerned to leave quickly to avoid conflict, without considering KM's need to be praised by his mother, or even say goodbye. Mother then got upset, not considering the impact of KM seeing her get upset. The school had to intervene to minimise the upset, but KM was present and no doubt well aware that he was the centre of what was going on.
148. The social worker stated that there were no concerns that KM would be at risk of harm if he continued to remain in the care of both parents. He has witnessed acrimony and abuse between his parents. The last safeguarding concern reported was August 2020. I consider the position of the parents to be more delicate and much more finely balanced than the local authority suggests. The risk for further disruption, acrimony and emotional abuse to KM is real.
149. The inability of the parents to co-parent will not magically be solved by a change in the arrangements. Nominating a primary carer, expressly or implicitly, via the proportionate of time spent with each parent will do absolutely nothing to alleviate the

difficulties between these parents in terms of their perception, respect and communication. The problems will remain the same.

150. The parents have, at times, fully cooperated in the process and at other times have not. They have veered from wanting to support mediation, group conferences, to not wanting them. Unless all the expectations are set out in writing and agreed, there is a risk that compliance and investment will falter. It is accepted that there have been some gains in terms of positive communication between the parents. That is a fragile peace and supported by the professionals who remain in this case.
151. The local authority has proposed that the family are supported by a child in need plan, whatever the outcome. Dr Foley was very clear that the family need more support, preferably family therapy. There is a grave risk that the conflict could subsume these parents and the matter will descend to the longstanding dispute that has hitherto been evidenced in the papers. I have asked the local authority to set out in full the package of support offered and the expectations of the parents in engaging in that support. This is a one-time opportunity in a limited window of time for the parents to cooperate and undo the damage that has already been done.
152. This family does need a package of support. I have commented a number of times on the work that needs to be done with the parents to unpick their negative perceptions of the other parent. The local authority told me today that they are willing to fund eleven sessions with Relate. I was not clear whether this was counselling or whether this was something else. I do remain concerned that if this opportunity is lost KM will continue to suffer, the parents' discord will continue and, as Dr Foley remarked, the opportunity to change things for KM will be lost noting his age.

153. The local authority will restart the support offered by Clare Fields. This will be important as the parents are yet to be able to talk about difficult or contentious issues. There are still improvements to the current level of communication that need to be made.
154. I also consider that mother needs parenting support. It matters not how this is to be delivered. The child's behaviour needs to be managed. From what I have been told in this case, it is not managed whilst within mother's care. She needs to engage in this work and enhance her skills to manage a young boy, who can be challenging at times and will become more so unless boundaries are instilled. He is amenable to boundaries now, but that must happen soon before the opportunity is lost. Mother must accept Dr Foley's analysis that KM needs authoritative parenting at times, even if this is just when it is required.
155. The arrangements that are in place at the moment have been in place for a number of years. They have worked, to all intents and purposes. KM has been afforded a relationship with each parent and is generally doing well at school. That is not to minimise the harm he has been subjected to and both parents need to do work to minimise future harm.
156. Neither the school, the guardian or the social worker commend change. Even Dr Foley accepted that the arrangements could stay the same if the parents are able to commit to the planned work as suggested by the local authority. Both parents tell me they will do the work regarding their communication. I would like mother to consider her position in terms of the parenting work, but she has been warned that if she does not do that it may ultimately result in the loss of her care of KM.

157. Importantly, KM is happy with the arrangements. There is little cogent reason for a change in the arrangements at this juncture. A change in the arrangements may be detrimental to KM, but also to the dynamic between these parents. That is not to say that the arrangements will not need to change in the future if one or both parents do not engage in the work planned.
158. The local authority will remain involved until such time as the child's parents are able to parent cooperatively without placing KM at risk. I have alluded to the risk that the local authority may bring the case back to the court under the guise of public law proceedings should the harm continue and the parents fail to address the issues that are causing the problem.
159. The issue here is the parents' relationship. There is no order that I can make that will instil change in that. That must come from the parents. That is why the work and therapy outside court is so important. They have been in the same position for so long, they do not know how to effect change and build upon the small nuggets of progress that have been made by Clare Fields last year.
160. Both parents have very helpfully indicated to me that they will agree to the work proposed by the local authority. There are glimmers of hope that the parents are willing to commit to that work. I am fearful that if the intervention is not right the position of the parents will be further entrenched, be harder to address and be lost if they are outside the child's timescales for change.
161. The local authority has indicated that they would not resist the making of a supervision order today, but I have decided not to make a public law order. Quite apart from the fact the threshold for making such an order is disputed by father, it adds very little to the child in need plan that is already proposed.

162. Miss Eveleigh-Winstone commended a family assistance order. I have preferred the child in need plan as it heightens the risk issues to the parents. The next steps from the CIN plan are child protection and then public law proceedings.
163. Whilst I understand the point of enforcing the involvement of the local authority for a specific duration, noting the length of issues between these parents, I would expect the local authority to remain involved with the family for a minimum period of twelve months, especially as the work will take at least six months when it starts.
164. The guardian has also commended the making of a barring order. I note that there has been almost continuous litigation for most of this child's life. I take very seriously that he has been continually asked by various professionals about his wishes and feelings and, as Dr Foley alludes, he is now silenced. He needs to be relieved of that burden. Parents need to be forced to work together. There are good welfare reasons why a barring order should be made and I make such an order until the child's tenth birthday.
165. That means that the parents cannot make any application for a child arrangements order, or a variation of the current child arrangements order, in that period of time without the leave of the court. That order will act as a filter to weed out unmeritorious applications. The parents can still apply for enforcement and, of course, the local authority has the ability to apply independently for a public law order. I make it clear that I consider the failure of the parents to engage in the work suggested by the local authority would, to my mind, be a good reason to review the current arrangements and likely to result in the grant of leave.
166. The current arrangements embody the best arrangements for KM now. The order that I make reflects the current arrangements, but will make very clear remarks about the

work that is to be done and that the parents have agreed to the same. If the parents really care about their son in the way that they told me that they do, they will fully commit to the work and improve his emotional wellbeing. It is not about them. It is about him.
