

IN THE WEST LONDON FAMILY COURT

SITTING AT BARNET

Date: 11 September 2019

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF THE CHILDREN, A AND B

Before:

HHJ Rowe QC

Between:-

F

Applicant

-and-

M

Respondent

JUDGMENT

HHJ Rowe QC:

The Application

1. This is my fifth substantive judgment in respect of these two children, three of which have been published on BAILII. The child arrangements are still determined by an order I made on 12 October 2016, save where slight changes have been made by agreement.
2. By application dated 11 December 2018, the father, seeks two orders in respect of his children A aged 9 and B aged 7.
 - a. He invites the court to vary the order currently providing for the children to live with their mother, M, and spend time with him and instead direct that the children live with both parents albeit spending more time with the mother than with the father; and
 - b. He invites the court to vary the current arrangements for the children spending time with him by extending the current weekend timetables so that the children remain with him every Sunday night, and he will take them to school on Monday, and by alternating the key religious festival days between him and the mother. The 2016 order currently in place provides that,
 - i. In Week 1, the children spend the weekend with the father from after school on Friday until Sunday afternoon;

- ii. In Week 2, the children spend time with their father from after A's Sunday school (about 3.30/4) until 7pm. The parents have varied the times by agreement to 5pm to 8pm, because A now finishes school later; and
 - iii. That the children will spend key festival days in each main festival with the mother, and the subsequent festival days with the father.
- 3. The mother opposes the application for a shared lives-with order. She would agree to the children spending different times with their father to those under the current arrangements. Central to her position, however, is that the children should no longer spend any (save occasional) Sabbath with their father and they should never spend the main festival days with their father. On that basis she would agree that
 - i. The children spend time between the end of Friday school and 2 hours before the start of the Sabbath with their father each week;
 - ii. that the father can collect the children at 3.30 on Sunday, A leaving school early, and return them to school on Monday morning each week;
 - iii. that they spend alternate Wednesdays overnight with their father.

In addition she proposes that the children spend slightly longer than half of their (limited) school summer holidays with the father. B should never spend time with the father in A's absence. The mother invites the court to make an order against the father under s91(14) Children Act preventing further s8 applications without leave for at least three years.

The history

- 4. For the history of the family and the litigation in respect of the children from time to time, I refer to
 - a. Paragraphs 11-18 of my judgment of 2 July 2014;
 - b. Paragraphs 14-16 of my judgment of 4 November 2014: Re X (Number 1: Religious Differences: Schools) [2014] EWFC B230;
 - c. Paragraphs 6-18 of my judgment of 9 May 2015: Re X (Number 2: Orthodox Schools) [2015] EWFC B237; and
 - d. Paragraphs 3-9 of my judgment of 12 October 2016: Re X (Number 3: Division of Religious Festivals) [2016] EWFC B91.
- 5. In the period since October 2016, the children have remained living with their mother. They have continued to spend time with their father, and they have gone abroad on holiday with him both to see their paternal grandfather abroad and, after I made an order to this effect, to see family abroad last year. It is a credit to the parents that even with the difficulties on which this judgment must inevitably focus, these lovely children continue to have a close, loving and important relationship with both of their parents.
- 6. The mother has remarried. She has had another child.
- 7. The father has returned to live a fully orthodox life, now living in North London and attending a North London Synagogue daily. His relationship with his father, damaged in the wake of his

departure from the family home and the Satmar community, has improved, and the men speak once or twice a week. The father, who was stacking shelves in a supermarket at the time of the 2015/2016 proceedings, now works on 4 days a week as a data analyst. He has worked hard to overcome his lack of any significant secular education, and he is approaching the final year of a BSc degree in Computer Science; his courses take place on weekday evenings.

8. The father issued his application on 11 December 2018. The key triggers for the proceedings were, and remain,
 - a. Practical problems caused by the current arrangements. In Week 1, returning the children to their mother by mid-afternoon on Sunday means that the father has only a short non-Sabbath day with them and cannot take them on day outings or assist them with their homework. In Week 2, there are real limits to how meaningfully father and children can spend time in the three hours they have after A comes out of school on Sunday, even if he comes out earlier than 5/5.30 when school ends. If the children stay with their father until school on Monday, then a much richer menu of activities and interaction becomes possible;
 - b. The father has a real concern about the quality of the children's education. It was already clear, as previous judgments demonstrate, that the children's schools both give significant priority to religious over secular teaching. In the period since 2016, however, both children's schools have had Ofsted inspections, and both have been identified as inadequate. Both schools currently have far more students on their register than they are approved to teach, and both have very significant failings in their curriculum and their teaching. The father compares the children's progress with that of the children of friends in the Modern Orthodox community and sees that they are far behind. He has not applied for the children to move schools, however he wishes to have more time so that he can support the children in making better progress in their secular learning;
 - c. The father has not been able to engage with the children's school, to be invited to parent-teacher events, to see examples of their work or to develop a working relationship with the teachers. His case is that the policy of exclusion of the father which I have discussed in previous judgments continues unabated. He considers that a shared lives-with order will help to solidify the importance of his position as the children's father;
 - d. The father wishes to become more involved in the children's religious lives. At present the order, made when the father had not yet returned to the Modern Orthodox community, provides that the children will spend the earlier, enhanced, religious days of the Jewish festivals with their mother and the later less significant days with their father. Now that the father has returned to a more observant pattern of life he wishes the children to be able to spend alternate significant festival days with him.
9. The mother's case in response is to ask the court to exclude the father from every Sabbath (save that she now concedes occasional exceptions such as the Sabbath in the middle of an extended holiday period, her starting point in the case having been that the father should

return the children for the Sabbath in the middle of the 2 holiday weeks) and to continue to exclude him from the most significant festival days. It is her case that the children do not like to do anything in a way that is other than pure Satmar, and that they are confused about and hostile to the requirement that they do so when with their father, particularly on the Sabbath. She asserts that he has continued to expose the children too much to experiences that are not Satmar, such as mixed swimming, the use of non-kosher toothpaste during the Sabbath, and the provision of food that is insufficiently or not kosher. She accuses him of wanting the children to leave the Satmar community. She rejects the criticism of the children's schools, asserting that both children are having an appropriate education and that the father has actually made that harder by withholding consent to an educational psychological assessment of B and her progress. She challenges the father's assertion that he is unwelcome in the children's schools and accuses him of causing any difficulties by his own evident hostility towards the schools as demonstrated in his evidence. The mother asks me to make an order under s 91 (14) Children Act 1989 preventing the father from issuing further applications in respect of the children for a period of at least three years.

10. In each respect, save in pressing for a s 91 (14) order, her case is the same as it has been in each set of proceedings in respect of the children to date.
11. The court directed a welfare report which was filed by Ms P on 11 July 2019. Ms P's report recommends that,
 - a. The children continue to live with their mother; and
 - b. The children should cease to spend any Sabbath with their father, save during festivals and holiday periods and should, instead,
 - i. spend alternate weekends with their father "from Sunday morning after school" until school on Monday; and
 - ii. in the intervening weeks, be with the father from after the Sabbath on Saturday until Monday morning.
12. In her report, Ms P,
 - a. Described how A spoke to her of his responsibilities when he turns 13, of the importance to him of his school, his studies, the Torah, and the Sabbath. A spoke of the difference between the kippah his father wears and the true or kosher kippah worn by the Satmar. He described a concern about the fact that on the Sabbath his father makes him clean his teeth with non-kosher toothpaste;
 - b. Described the warm and affectionate exchanges between A and his father;
 - c. Spoke of A not wishing to spend the Sabbath with his father, appearing to be caught between the "proper" Satmar way and the father's way;
 - d. Wondered if the father allows A access to his laptop, given A's apparent familiarity with the device;
 - e. Described B's close bond with both parents, and her closeness to her brother;
 - f. Noted that B appeared tired during her visit;

- g. Described the mother's concern that B appeared in an exchange with a neighbour's child to know about babies and pregnancy, something she would be told nothing about within the Satmar community;
- h. Spoke of the father's description of Satmar life as living in a bubble, and expressed some criticism of him for refusing to agree for B to be seen by an Educational Psychologist as recommended by her school.
- i. Criticised the father for wishing to attend his daughter's parents' evenings, when only women do this within Satmar;
- j. Expressed concern that the father might at times lose his temper with the children (based on A's description of being made to brush his teeth);
- k. Concluded that the Sabbath may be the most challenging time for the children, highlighting the differences between their parents' pattern of observance.
- l. Criticised the father for not being sufficiently mindful of the Satmar tenets.
- m. Observed that the mother has not reassured the children about their reported experiences with the father, but thought that this was understandable given her own religious position.

The hearing

13. The evidence took place over three days starting on 22 July 2019. The parents were both represented by counsel. I am grateful to both, noting that Ms Stone QC acted for the father pro bono throughout.
14. I read the trial bundle. I heard the oral evidence of,
- a. Ms P,
 - b. The father;
 - c. Rabbi B, for the father, Rabbi of the Synagogue attended by the father and the children;
 - d. Professor C, for the father, active member of the Synagogue and close family friend of the father;
 - e. Mrs D, for the father, mother of young children who are friends of A and C, and a teacher at an Orthodox primary school;
 - f. The mother, assisted by her usual interpreter.
15. Listed for 3 days, the evidence in the case did not complete until late on the third day. Ms Stone made oral submissions, but Ms Lister for the mother wished to provide written submissions. I agreed with the proviso that Ms Stone QC, who would otherwise have spoken last, could provide a concise written response. The mother's submissions were provided late, with my agreement, as she suffered a bereavement after the hearing ended and she needed

time to mourn. I finally received the last written submissions, from Ms Stone, on 29 August 2019. Judgment will be handed down tomorrow, 12 September.

16. I received some information more recently, by email, from the mother's solicitors to the effect that the father again took the children mixed swimming on holiday. Ms Stone invited me to disregard the email as the facts are not agreed and cannot be determined in correspondence.

The law

17. I set out the relevant law in each previous judgment, starting in 2014 at [E4]. I refer to those previous judgments for the law that I continue to apply. In particular, I refer to paragraphs 19 and 20 of my judgment of 4 November 2014 in which I cited extracts from the case of Re G [2012] EWCA Civ 1233, at paragraphs 16-19, 35-36, 38, 43, 45 and 80. I am reminded once again of the relevance of that case by Ms Stone QC for the father.

Overview [4]; Discussion of the evidence

18. Once again I have had an extended opportunity to hear the evidence of these two intelligent, highly articulate young parents. The father's evidence was, as always, given in English. The mother's evidence was, as always, given in Yiddish through an interpreter despite the fact that she had no interpreter for her interview with the Cafcass officer in which she was well able to express her case and her views in English. It is a testament to her eloquence (and to the capability of her interpreter) that I was once again able to form a very clear impression of her evidence unhindered by the language barrier.
19. The father described a settled, happy Modern Orthodox life in which he has a job that he values, he is making excellent academic progress and that he is now embedded in the Modern Orthodox community where he attends synagogue daily, sometimes leading the service. He spoke of the quiet family time that he and the children spend when they are together on the Sabbath, either at home together or visiting friends with young children within the community. The father told me that when he and Professor C study the Torah on Saturday afternoons, A will now come and sit with them and sometimes join in. On a number of occasions now, A has chosen to sing a hymn during the service at the synagogue, in front of the whole congregation. The father spoke of this with pride, and a delight in his son's engagement and enthusiasm. He showed me photographs of the children on their foreign holiday last year, with family members who wore conventional summer clothes but with both children dressed appropriately for Satmar. All looked very happy.
20. The father spoke of his continued frustration at the children's poor educational progress. He explained that the schools have repeatedly refused to send him examples of the children's work, but that in the few pages he has of A's writing, A aged 9 is tracing single letters of the alphabet as much younger children usually do. He spoke of the incident recently when he was not invited to A's parents' evening, even though A told him about it and wanted him to go. The school's response to the father's email asking why he had not been invited was that the father's address "has not been generated" on the system. The father continues to feel that, with the schools and when he visits Stamford Hill generally, as he did recently to attend a Stamford Hill synagogue, he is shunned. The father explained that he was not prepared to

agree to B seeing an Educational Psychologist until the school helped him to a better understanding of the classes B is having, and provided him with examples of her work so that he could understand more about the supposed problem in her progress.

21. I thought the father's evidence was straightforward, measured, loving and affectionate about the children, child focussed, and both frustrated and emotional when he spoke of the problems with the schools. The father said that he would do nothing intentionally to distress the children and I accept his evidence.
22. The father's witnesses were similarly impressive witnesses. Rabbi B spoke not as an expert but of his observations of the father and children together, as did Professor C and Mrs D. All gave a clear impression of an observant orthodox Jew, of a loving father and of a valued member of the community. All described a father who is respectful of Satmar – despite their evidence of the intolerance of that community where “any compromise is much, much reduced”. They described a father who spends an enormous amount of time playing with the children, reading stories and encouraging them in their studies. Professor C told me that the father takes care to ensure that the children do not do something they are told by their mother not to do even if they ask to be able to. None have ever seen the children with electronic devices. All are clear that the father is the most patient of men, he never raises his voice with the children and the children happily engage in the Sabbath rituals. I accept that evidence without reservation.
23. The mother's evidence was, by contrast, extremely concerning. Whilst telling me that the children adore their father, she described him repeatedly as a man who “desecrates the Sabbath” in that he does not hold a Satmar Sabbath. She said that the father's witnesses reassured her of nothing because they “do not know what Satmar is”. The father “does things against Satmar that make the children upset”. She said “I disapprove of Modern Orthodox Jews if they do things against Satmar”. “The children live the Satmar lifestyle. For the children's feelings, their father should try harder”. “He says he is a proper Jew. I try to believe him and I try to show the children but when he does things against the Sabbath that are not allowed. How can I believe he is a Jew if he does things to desecrate the Sabbath?”. “When it comes to desecrating the Sabbath I can't tell the children that the way is true. The children can see that it isn't.” Of A's parents' evenings, which she can only attend by phone, she “has never told the father of a parents' evening. It is for the father to email or ask”. As to what A is studying, she said “I really don't know what a child of his age should be reading...I do not know what he is studying in Geography; something about people eating with chopsticks”. The mother advanced a litany of detailed criticisms against the father including the wrong kippah, the non-kosher toothpaste, allowing the children mixed swimming on holiday, bathing the children together, playing non-Jewish music in the car, not showing the children that he was using a permissible light switch during the Sabbath and giving chocolate yoghurt that is not kosher. Every allegation seemed to be of equal concern to the mother.
24. A further concerning aspect of her evidence was her attempt to persuade the court that A could choose to go to University, and B could choose to go to a Sem and take such subjects as biology A level. When I questioned how that could be since B cannot learn anything of the sexual reproductive system I did not receive a clear answer. On the evidence of the parents, of the father's witnesses including Mrs D, a teacher, and on the evidence about the children's schools and their educational progress thus far, the mother's assertions are simply untenable.

No-one else on the mother's or the father's side – and both come from extremely large families – have gone on to further education or obtained any professional qualification. I accept the evidence of Mrs D that even if a Sem offers girls a course such as bookkeeping, something will usually crop up to prevent them qualifying eg that the classes are mixed or that the teacher is male. The fact that the mother appears to have no concerns at all about the Ofsted reports on the schools that both children are attending is itself of concern to the court, especially when I remind myself of the words of Munby LJ at paragraph 80 of the case of Re G: that “equality of opportunity is a fundamental value of our society; that we foster, encourage and facilitate aspiration; and that our objective is to raise our children to adulthood in such a way that they are best equipped to decide what kind of life they want to lead and to give effect as far as practicable to their aspirations”.

25. I have throughout my judgments been crystal clear:

- a. that both parents are equally important to the children.
- b. That the children should be increasingly part of their mother's *and* their father's lives, though the father needed to be patient in introducing the children to the non-Satmar world; and
- c. that in order to help the children to steer the difficult course between their parents' very different lives in order to maintain a full, healthy relationship with both parents then both parents would have to compromise in respect of their own adult beliefs. I regret to say that while in the main the father has achieved this compromise the mother has not.

26. Of course it is difficult for the children to move between the two worlds. That has been plain from the moment the parents separated. It is the fundamental issue in every set of proceedings to date. It is not, however, a reason for the children to be excluded from either world; in order to remain healthy children they must be supported to become part of both. Instead, while the father's life has moved far closer to a life in which the children can be – and are seen to be – comfortable and happy, the mother has remained rigid in her condemnation of anything – anything – outside Satmar. The father made two discreet and quite limited applications. The mother has, in response, attempted to re-visit the issues I have determined in earlier judgments, seeking, effectively, to exclude this father from the religious lives of his children.

The Cafcass officer

27. Ms P has not been involved in this case previously. She faced a difficult task in getting to grips with the complex history and the issues involved. The mother's case is that she did so. The father criticises the Cafcass report and evidence on a number of bases:

- a. Ms P thought that there was an extant open ended non-molestation order against the father when this was not so. A sort-lived order was discharged 5 years ago. This is especially relevant given that the Cafcass officer wondered if the father has lost his temper with the children;
- b. She said that the father was a “secular Jew” when he had told her he was Modern Orthodox. She thought he was not necessarily observant all the time. In evidence Ms P accepted this and apologised;

- c. She appeared to proceed on the basis that the father is still expected to replicate Satmar when the children are with him;
 - d. She did not appreciate that the father had not been invited to A's parents' evening, when referring to the father as unduly critical of the school;
 - e. She was not aware that the father had been sent almost nothing about B's progress at school;
 - f. She could not explain why she did not visit the father's home when the order specifically requested her to do so;
 - g. The report did not say, though Ms P confirmed in evidence, that A pulled the father's arms around himself on many occasions, initiating affection.
28. Ms P agreed, in evidence, that A has a very clear message that what he does in the mother's home is right and what he does in the father's home is wrong. She had not spoken with A about the occasions when he has chosen to sing in front of the congregation in the father's home. She agreed, in cross examination, that she cannot say whether A is actually more comfortable in the father's community than he says he is. She confirmed, however, that the children have already internalised the fact that the father's way of religion is wrong. She said the children have said they want more time with their father, just not on the Sabbath. She agreed that the mother's embedded views will make it more difficult for the children to settle with the father. She agreed that the mother also needs to make changes and support the children. Specifically, she agreed that her recommendation for the children to spend Saturday after the Sabbath to Monday on alternate weekends is unworkable when the Sabbath ends late on Saturdays in the summer months. Ultimately, she agreed that if the children no longer spend Sabbath with their father, then they will be reinforced in their view that he is not a proper Jew, that it is not important for them to spend holy days with him.
29. In my judgment, Ms P was more reflective on the real difficulties in this case in her oral evidence than in her report. The fundamental question moving forward remains how best to help the children to move between their two different worlds. In her report, Ms P concluded that the answer was for the children to be permitted to become more embedded in the mother's world, rather than less. She did not reflect on the damage that this would do to the children's relationship with their father in the short, medium and long term. In her oral evidence she did acknowledge that damage and she did place greater emphasis on the need for the mother to support the children to be comfortable with the father.

The welfare checklist

30. In such a complex situation it is necessary to look at all of the evidence to try to ascertain the children's wishes and feelings and to evaluate the reasons for them. As to the children's wishes and feelings, the independent evidence I have comes from the Cafcass officer and from the father's witnesses. I take from that evidence that the children love both of their parents, that they are very aware of the differences in the two worlds in which they live, and very aware of their mother's feelings about their father's world. I take from the evidence that A finds the transition difficult. In part A may understandably feel that there will be less conflict, that life will be simpler if he does not have to spend the Sabbath with his father; it will "avoid the problem". Given all of the evidence of the father's witnesses that A is very happy spending the Sabbath with his father, I find that A is saying what he said to Ms P not because he dislikes

the Sabbath with his father, but because he knows full well what the views of his mother and his community are, and that as a result he cannot say that he is happy spending Sabbath with his father. The intransigence shown in the mother's evidence demonstrates her likely response to being told of any non-Satmar experiences. B, that much younger, follows her brother on this issue. What these children want is to be able to move between the two worlds safe in the knowledge that each parent wants -and will help - them to be happy and relaxed when in the care of the other.

31. This is also what they need. They cannot have the burden on their young shoulders of feeling guilty and conflicted every time they live a non-Satmar experience.
32. Both parents are now living settled religious lives. If the mother will start to support the children as I have described, then that change would free the children to experience both worlds to the full without the burden seen in the children's interview with Ms P. If the children are withdrawn from involvement in the religious life of the father then as I have said in previous judgments and as Ms P herself acknowledged in oral evidence, the children's concern that their father is not a proper Jew will be confirmed. He will become very significantly and increasingly less important to them.
33. These are children whose parents now follow different paths in life. To grow as complete, emotionally healthy children they must be able to walk with their parents along both paths. If they do not do so then they will suffer emotional harm as they struggle with issues on which their parents should both be helping them.
34. The father has demonstrated, over the 5 years of periodic litigation, a high level of patience in introducing the children to the non-Satmar world very, very slowly. In all those years he has supported the children, and been gentle and sensitive with them. Had he not been, they could not have developed the loving, trusting relationship with him that they have. Inevitably differences have arisen – such as the toothpaste issue – but these have to be put into context. Given the amount of time the children have spent with their father over these many years now, it is in my judgment remarkable that so few issues of concern have been raised. I do not accept that the father has allowed the children access to electronic devices, simply because A appeared familiar with what a laptop is. I do not accept that the father allowed B to wear a dress that was too short. I accept that he no longer bathes the children together. I do not accept that he gives the children non-kosher food. The mother must stop telling the children to check and she must tell them to trust the father. It is invidious that he has to show them labels when they eat and drink at his house.
35. The mother has shown in her evidence that if anything she is more rejecting than previously of anything “not Satmar” or “against Satmar”. At paragraph 55 of my last judgment I said that

“55. The mother must understand that these children will always be living a life that is different from that of their peers, however sensitive and careful the father is to minimise the differences at this stage. Her task is to support them in understanding the differences rather than to be threatened by them. She must understand that cutting out the father is not an option that the court could support. She must further understand that it is in the children's interests to grow with an awareness of the lives of both of their parents.”

I accept and continue to give the mother significant credit for the fact that she did not initiate these proceedings, and that she was making the children available to spend time with their father. She can and has acknowledged that they adore him and she tells me that she agrees that they must continue to see him. She does not accept or perhaps understand, however, that in failing to support the contact in full, by allowing the children to think that he is not a proper Jew and that he is living his life the wrong way, she is making it far more difficult for these children actually to enjoy the contact with their father that she is facilitating. In taking, with considerable enthusiasm and dedication, this opportunity to raise once again all of the issues she has raised before she is laying bare her real feelings about the children's relationship with their father. The children are inevitably aware of those feelings.

36. I do not take into account the recent emails about mixed swimming. The parents must both accept responsibility for sensible communication. The mother must stop raising every departure by the father from Satmar and reassure the children that they can trust the father. If the mother tells the father that something has particularly upset the children then he must be open to the fact that this might be true, and try in a courteous way to reassure her. He says that he does that, and I accept his evidence.

Decision

37. I conclude that the children should live with both parents.
38. This issue was raised on 11 December 2018 on page 1 of the father's application; it has always been the father's application. I reject the proposition that it was raised only in closing submissions.
39. The evidence demonstrates that the mother, the community and the children's schools share the view that the father is not a proper Jew, and that he should be excluded as far as possible from the children's religious life and education. An order that the children live with both parents is essential, now, to make clear once and for all that the parents are equally important to their children. Each must have the same input into all important aspects of the children's lives. The views and wishes of each are as important as the other. There should not remain in place an order that might be taken to imply that the mother is more important than the father in the children's lives.
40. I have heard a wealth of evidence that the Cafcass officer did not hear and that she accepted she was not aware of. The evidence confirmed to the court that nothing has changed in this regard since the initial litigation in 2014. It is time for the court to make this change in order directly to address this concern. In any event, whereas contact was tentatively moving towards overnight contact at the time of the initial "lives with" order, the children are now spending regular extended overnight periods and holidays with their father. This also points clearly towards the making of a shared lives with order.
41. I conclude that the children should continue to spend alternate Sabbath weekends with their father.

42. The Sabbath is of key religious significance to both parents. It is of key significance to the children. If the father is excluded from those days then his importance, his significance to the children will diminish radically and the children will be unable fully to walk the father's path in life beside him. Over time, this is likely to cause increasing damage to the children's relationship with their father as the Satmar requirements on them increase over the years. I actually determined this issue in previous judgments, and nothing has changed to suggest that I should revisit my previous decision.
43. I repeat that I have heard a mass of evidence that the Cafcass officer did not hear. To the extent, which was unclear after her oral evidence, that she remained of her original view on this issue I depart from her recommendation. The main reason is that she did not balance against the element of relief to the children of simply removing them from their father's religious life the profound damage that this would cause to their relationship with him. She did not factor in that I determined this issue some years ago, and my reasons for doing so. And she was unaware of the evidence of how A, whose stated views so influenced her, plainly enjoys and actively plunges into the Sabbath with his father.
44. I conclude that the children should now spend alternate key festival days with their father.
45. He was not but now is fully observant, and the children should be able to experience the key festival days with both of their parents.
46. I conclude that the children should spend Sunday nights with their father. Even now, in every 14 days, they will still spend 10 nights with their mother and only 4 nights with their father. They will, however, have more opportunity to develop their relationship with him in this way.
47. The mother's proposals, set out in the coloured diagram that was put to the father in evidence, were, I conclude not in the children's best interests. If implemented, they would have had the result that: on Fridays the father would have the children with him for slightly longer in summer but for very limited time in winter, as the mother wants the children home 2 hours before the start of the Sabbath at sundown. On Sundays the children would only go to the father after school – 3.30pm at the earliest – and they would be back at school on Monday morning. This would be both disjointed and very limiting in the activities the children and their father could engage in. Whilst a Wednesday overnight would be perfectly normal and reasonable, the father is currently working on his degree in the evenings and not available. Of course, if necessary he could either abandon his degree or, if possible, extend the course and make it part-time, but it seems to me that he does not need to do so as he can have the children with him on Sunday nights.
48. I conclude that if either child is unable to spend time with their father for instance through illness, then the other child should still be with the father individually. Specifically, there is absolutely no reason why B cannot spend time with her father without her brother.
49. I refuse the application for an order against the father under s 91 (14). He does not litigate unnecessarily. He has not issued an application, save in respect of the summer holiday in which he was successful, since 2016. His applications were limited in scope. It is the mother who has taken the opportunity to re-open the fundamental issues that I have had to address

once again in this judgment. Especially in the light of my concerns about the mother's evidence and my continued concern at the exclusion of the father from the children's education and Stamford Hill lives, it would be contrary to the best interests of the children to limit the father's ability, if necessary, to seek the assistance of the court.

Final note

50. The mother must change her position. She must support the children in their involvement in the father's life now. She is an intelligent woman, extremely well represented, and in possession of all of my judgments translated into Yiddish. She knows very well what I require of her, and what the children need from her. She said that the father "must try harder". No. No. It is she who must try a very great deal harder. If she does not then she will be causing her children emotional harm, and sadly the case is likely to return to court once again.

51. I will not countenance the exclusion of this father from a full role in the secular and religious lives of his children. The children must live in a home where they are supported to develop a full relationship with both of their parents, a home where both parents are fully valued. Not conditionally valued, not valued only in a secular way, but fully valued.

HHJ Rowe QC

11 09 19