



Neutral Citation Number: [2024] EWHC 1670 (Fam)

Case No: NG22C50215

**IN THE HIGH COURT OF JUSTICE**  
**FAMILY DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 21/06/2024

**Before :**

**MRS JUSTICE LIEVEN**

-----  
**Between :**

**A LOCAL AUTHORITY**

**Applicant**

**and**

**THE MOTHER (AZ)**

**First Respondent**

**and**

**THE FATHER (BX)**

**Second Respondent**

**and**

**RV**

**(a Child, through their Children's Guardian)**

**Third Respondent**

-----  
-----

**Ms Sara Davis** (instructed by **A Local Authority**) for the **Applicant**  
**Ms Nicola Beese** (instructed by **Hawley and Rodgers Solicitors**) for the **First Respondent**  
**Mr Stephen Williams** (instructed by **Jackson Quinn Solicitors**) for the **Second Respondent**  
**Ms Anne Buttler** (instructed by **Tallents Solicitors**) for the **Third Respondent**

Hearing dates: **14-15 May 2024**  
-----

# Approved Judgment

This judgment was handed down remotely at 10.30am on 21 June 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

MRS JUSTICE LIEVEN

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

**Mrs Justice Lieven DBE :**

1. This is the final hearing of care proceedings in which I gave a judgment on the fact finding element on 14 August 2023. The issue now is the final orders to be made in respect of the youngest child, RV, who is aged 3.
2. The Local Authority (“LA”) were represented by Sara Davis. The Mother was represented by Nicola Beese, the Father was represented by Stephen Williams and the Children’s Guardian was represented by Anne Buttler.
3. In the fact finding judgment I made very serious findings in respect of the Father. Those findings can be very briefly summarised as being that he had sexually abused his daughter, DZ (now aged 17), for a number of years, starting when she was about 10; that he had physically abused DZ; that he had been controlling of the family, including the Mother and the children; and that he had consistently lied both to the Court and to the police.
4. After the judgment the parents were both given time to consider the findings. The Father does not accept any of the findings. He was refused permission to appeal. The Mother also does not accept the findings, but she has made clear that she will abide by any conditions that the LA seek to impose in terms of RV being allowed to remain with her.
5. When DZ first made her allegations the Father was subject to bail conditions which prevented him from having unsupervised contact with the children, and stopped him from returning to the family home. At one point there were bail conditions which prevented him from communicating with the Mother. However, that condition was removed, at least by the time of the fact finding hearing.
6. The position of both parents before me was that the Father should be allowed to return to the family home and to have no restrictions on his contact with RV.
7. I heard evidence from the social worker, Ms Rich, who has known the family throughout the proceedings; the Father; the Mother, and the Guardian Ms Abley, who only became the Guardian after the fact finding hearing.
8. Ms Rich had carried out a risk assessment of the Father. Her conclusion was that the Father posed a significant risk to RV and the risk of the Father returning home was too great to be manageable. Mr Williams makes considerable criticism of this assessment and says that it fails to consider what mitigation could be put in place at home, and the harm to RV if his father is not allowed to return to the family home.
9. It is the LA and the Guardian’s case that the Father poses a very significant but largely unquantifiable risk to RV. Although the findings relate to persistent sexual abuse of DZ, who is a girl, the view taken by the LA and the Guardian is that he also poses a sexual risk to RV. This is in part because DZ was pre-pubescent when the sexual abuse began. Critically, because the Father has wholly rejected the findings, it is impossible to explore the nature of his sexual risk. However, given the findings that have been made, that such a risk exists is manifest.

10. Ms Rich was also particularly concerned about the findings that the Father was very controlling of the Mother, and the children. She felt that this level of control, together with the fear that if they told the truth RV would be taken away from the family, meant that if there was any further abuse the family would not be willing or able to tell the authorities. She felt that the Father still controlled the family.
11. They also consider that there is risk of physical abuse of RV, given the history of physical chastisement/abuse of DZ. The findings based on the evidence suggest the Father lost control when becoming angry with DZ about not obeying him. There is also risk of emotional harm to RV if the Father was to resume either physical or sexual abuse of DZ within the household.
12. Both Ms Rich and Ms Abley referred to the fact that the family is prominent in a fairly small community, and there was a strong cultural norm not to share issues such as domestic abuse with other members of the community. Therefore there was going to be very strong cultural pressure on the Mother, and DZ in particular, not to raise concerns about the Father's conduct within the community.
13. I am also very conscious that this is a rather isolated family. They have come from India, without having any family or friendship network in the UK. Although the Mother did say she had made friends, and initially put them forward to supervise contact between RV and the Father, she then withdrew them because she did not want them to know about the family's problems. This means that there is very little safety net for the Mother or the children if there are further issues with the Father.
14. Both Ms Rich and the Guardian view the nature of the risk being so serious and so difficult to quantify, that they cannot see any safe way that the Father can be allowed home. The Father has not engaged in any work to manage his behaviour, whether in terms of the findings of sexual abuse or in relation to loss of control and coercive control. They put forward no way to manage the situation in a safe way if the Father is allowed to return to the family home.
15. Although the Mother has been willing and able to comply with the rules in terms of the Father not returning to the home, the LA do not think that she could protect RV if the Father lived at home. The history of the case is that the Father is highly controlling of the Mother, and she was unable to stand up to him to protect the children in the past.
16. The other family members are also not protective forces. The Father has used them in the past, e.g. the family's oldest son, KV, checking DZ's phone, to control other siblings.
17. Both Ms Rich and the Guardian accept that the RV has a close relationship with his Father and much enjoys seeing him at contact. They both accept that if the Father cannot return home that will be harmful to RV because it will deny him a normal relationship with his father.
18. The Father denies all the findings, so ultimately his evidence takes the matter little further forward. I return to this in my conclusions, but importantly he accepts no findings of coercive control and he continues to deny findings such as that he wrote the letter to DZ trying to persuade her to retract her allegations.

19. The Father's evidence at this hearing was similar to that at the fact finding hearing. He accepts no fault whatsoever, he was highly avoidant when faced with awkward questions, for example he could not explain why he had not communicated with his wife even though there was no legal barrier to him doing so. He implied he had not had the position properly explained to him, but I found that very difficult to believe.
20. The Father said he had been suffering from depression and that had impacted on his behaviour, and his engagement with Ms Rich. However, there was no medical evidence to that effect.
21. Mr Williams submits that there is no evidence that the Father poses any risk to young boys, the only findings being in respect of this sexual assaults of DZ, a girl. There is no finding of direct harm to his sons. Therefore he says that any alleged risk to RV is purely speculative and not evidence based.
22. He says that the social worker, in her risk assessment, has failed to properly, or at all, balance the risks (or negatives) of denying RV any kind of normal relationship with his father. There is no attempt to explore alternatives to the plan advanced by the LA.
23. He points to the agreed position that RV loves his father and enjoys and wants to see him. The Father has been very committed to contact and plainly loves his family. Therefore not allowing the Father to return home is itself harmful to RV's welfare, and a significant interference into his right to a family life.
24. The Mother gave quite short evidence. She has shown herself able to prioritise the children and comply with any rules set in place by the LA. However, despite work that she has been doing, she denied any coercive control by the Father, and said the Father had acted to "protect" her and the family. I thought she showed almost no insight (or perhaps honesty) about the nature of the Father's controlling behaviour. I found this very troubling in the face of the very clear evidence of coercive control which I set out in the fact finding judgment.
25. The Mother strongly supported the Father being allowed to go home, and saw no risks from that happening. Ms Beese submitted that a safety plan could be put in place that the Mother would abide by.
26. By the end of the hearing I had become convinced that the optimism that I had felt about the Mother being able to protect RV if the Father returned home had been misplaced.

### The law

27. The law is not in issue here. I have to apply the welfare checklist under s.1 Children Act 1989. The Court operates a binary system, so the findings of fact have to be accepted as true facts. If I make orders that mean the Father continues to be excluded from the family home, and thus from living with his wife if she remains the carer for RV, that is a very significant interference in family life which would require a weighty justification.
28. Mr Williams reminded the Court of the need to link the findings of fact to the risks asserted, and submits that the burden of establishing such a link rests on the LA.

29. He relies upon the dicta of Hale LJ (as she then was) in *Re C & B (Care Order: Future harm)* [2000] 2 FCR 614 where she said:

*“The principle has to be that the local authority works to support, and eventually reunite, the family, unless the risks are so high that the child’s welfare requires alternative family care... : Intervention in the family must be proportionate, but the aim should be to reunite the family when the circumstances enable that, and the effort should be devoted towards that end. Cutting off all contact and the relationship between the child and their family is only justified by the overriding necessity of the interests of the child.”*

### Conclusions

30. This is not at all an easy case. To prevent the Father from returning home and living with his wife is a very significant interference in his Article 8 family rights. Both he and the Mother wish to continue to have a relationship and to live together. However, the Mother has been prepared to put RV first, and I am satisfied that if the Father does not live in the family home she can and will protect him.
31. Mr Williams rightly points out that the LA’s position is likely to lead to the family being split for the next 15 years and the narrative that RV is given will be a highly confusing one, given that the family do not (at least publicly) accept any of the findings. The effect of requiring the Father not to live in the family home may make his deportation more likely.
32. However, I have made very serious findings about the Father, in particular concerning his sexual abuse of DZ from the age of 10 and on frequent occasions.
33. The LA place a great deal of weight on the fact that the Father has not accepted my findings. This is a frequent problem in Family Court cases where the judge has made very serious findings. In reality the Father cannot accept my findings of sexual abuse because if he did so he would be highly likely to be prosecuted, and highly likely to be liable to deportation. It therefore seems to me to be somewhat unrealistic to expect the Father to accept those findings.
34. That creates an insoluble problem. Neither the court nor the LA can really assess the level of sexual risk the Father poses because he does not accept the findings and therefore cannot engage in any meaningful work around that risk. However, I do not accept Mr Williams’ submission that that means the LA cannot assert that he is a risk to boys because there is no evidence.
35. I agree with the LA that the Father’s non-acceptance of the findings of sexual abuse makes it extremely difficult to assess the level of his sexual risk to RV. None of the parties chose to produce any material on the correlation between sexual interest in 10 year old girls and that in younger boys. I can therefore only say that there is a risk to RV of sexual abuse, but it is unquantifiable. I do not accept Mr Williams’ submission that there is no evidence of such a risk. There is some evidence, although it is of questionable weight.

36. However, I am also concerned about a continuing risk to DZ if the Father were to return to the home. If the Father returned home I think it is extremely unlikely that any member of the family – Mother, DZ or the older boys would report any concerns relating to the Father. It is evident, from the evidence of Ms Rich but also common sense, that they will be overwhelmingly concerned with RV not being removed from the family. They will know that any further complaint about the Father might well lead to RV being permanently removed.
37. However, the Father has also not accepted any of the other findings, including those of coercive control and trying to coerce DZ to withdraw her allegations. He could have accepted those findings, with far less jeopardy than the sexual abuse findings, but for whatever reasons chose not to do so. I agree with Ms Davis that the Father comes across as a highly manipulative and narcissistic man, who in my view has persistently lied and seeks to manipulate those around him.
38. He, apparently with the help of KV, wrote a letter of complaint, that quite clearly sought to rely on the fact that other members of the committee were not privy to the findings the Court had made. Although this has little directly to do with the issues before me, it is yet another example of the Father both seeking to manipulate a situation and of being fundamentally dishonest in his dealing with others.
39. In my view, if he returns home he will continue to seek to control and coerce the family, and I do not consider any member of the family will be able to tell any outsider what is happening. My assessment from the fact finding hearing and this hearing, is that the Father has almost complete control over the family members, whether through the loyalty of KV and AV, or the fear of the Mother and DZ.
40. Mr Williams refers to the positives of the Father, but having heard him give evidence twice, I find it difficult to point out any positives in his conduct towards his family. Even assuming that there was no sexual abuse of RV, there is a very real risk of physical abuse of DZ and possibly RV if either of them were to disobey him. I am also concerned that there may be ongoing risk of sexual abuse of DZ, which she would be unable to tell anyone about.
41. There are no third parties who can keep any realistic oversight of what happens in the family home.
42. For all these reasons I have reached the conclusion that the risk of harm to RV from the Father returning to the family home is unmanageable. I therefore take the view that the RV can only be kept safe if the Father is not allowed to return to the home.
43. The secondary issue is whether the Father can have unsupervised contact with RV in the community. At present the LA are providing supervisors for the Father's contact. The LA proposal is that supervision will reduce to a minimum of once per month unless the family can put forward supervisors who can be approved. I accept in these circumstances it is reasonable for the LA to expect the family to put forward potential supervisors.
44. Given the nature of the risks that I have set out above, I do not consider unsupervised contact is appropriate. There is some risk of sexual harm to RV in the community but

I expect this is fairly small, given the different nature of community contact from the Father actually living at home.

45. However, given the risk of physical abuse, and the evidence of the Father's efforts to manipulate the family, I do not feel confident in allowing him unsupervised contact. This is however an aspect of the case that might well change in a reasonable period of time. It is hard to know how the family dynamic once the proceedings are ended and the F cannot return home, will change and develop. However, for at least the next year contact should continue to be supervised.