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IN THE HIGH COURT OF JUSTICE  
FAMILY DIVISION  
[2020] EWHC 3366 (Fam)



No. FD19P00058

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Wednesday, 25 November 2020

Before:

MR JUSTICE KEEHAN

**(In Private)**

**Re A and B (Parental Alienation: No.1)**

B E T W E E N :

THE FATHER

Applicant

- and -

THE MOTHER

Respondent

MISS J. BAZLEY QC (instructed by Keystone Law) appeared on behalf of the Applicant.

MISS C. WOOD QC (instructed by Sears Tooth) appeared on behalf of the Respondent.

**J U D G M E N T**

MR JUSTICE KEEHAN:

## **INTRODUCTION**

- 1 I am concerned with two children Child A, who was born on 1 May 2006 and so is 14 years of age, and Child B (known in the family as ‘Child B’), who was born on 10 March 2009 and so is 11 years. The mother of both children is The Mother. The father of both children is The Father. His second wife is Ms A.
- 2 I have before me three applications: the father’s application for a child arrangements order of 5 March 2019; the mother’s application for a child arrangements order of 9 November 2018; and, third, the mother’s application to discharge the passport order made on 5 February 2019 which application is dated 30 October 2020.

## **THE LAW**

- 3 In considering this matter, I have regard to s.1(1) of the Children Act 1989 that the court’s paramount consideration is the welfare best interests of both children. I have also taken account of s.1(3) which is the welfare checklist. I have regard to the Art. 6 and Art. 8 rights of the mother, the father, and the children but I bear in mind that where there is a tension between the Art. 8 rights of a child on the one hand and of the parent on the other, the rights of the child prevail (*Yousef v Netherlands* [2003] 1 FLR 210).
- 4 In relation to the passport order, I was referred on behalf of the mother to the case of *Re K (Forced Marriage: Passport Order)* [2020] EWCA Civ 190.

## **THE BACKGROUND**

- 5 The mother was born in Armenia. She is 45 years of age. The father was born in Russia. He is 42 years of age. The mother moved to Moscow to work in 2001 and on 5 July 2005, the parties married in Moscow. On 1 May 2006, Child A was born and in September 2006, the father moved to London. The mother and Child A at that time remained living in Russia. Shortly afterwards the mother and Child A moved to London to live with the father.
- 6 The mother went to the United States of America to give birth to Child A and to Child B so they had American citizenship. On 10 March 2009, Child B was born. In May 2012, the parents separated and the father moved out of the family home. There was a brief reconciliation in July of that year but then the relationship finally ended in December 2012. The father last travelled to Russia in April 2013. For reasons which I need not adumbrate in this judgment, the father fears that if he were to return to Russia at any time, he would be at real risk of harm.
- 7 In January 2014, the mother issued an application for leave to remove the children from the jurisdiction to live in Russia. That matter came for a final hearing in November 2014 before Pauffley J when the matter was compromised with a shared care order being agreed for the children to spend equal times with each parent.
- 8 Very sadly, there then, in the following year, particularly in March 2015, were a series of allegations made by the mother against the father which involved the police and/or the local authority. Ultimately, no action was taken but it took a considerable period of time for the Crown Prosecution Service to notify the father that a decision had been made not to prosecute him. In November 2018, further allegations were made by the mother against the father in relation to the children and then in early November 2018, the mother made an application to vary the order of Pauffley J. She sought to suspend the shared care

arrangements. Those applications were refused. Shortly thereafter, Child B refused to go to his father's home and then contact began to fail. In December 2018 the children did attend contact with the father but failed to engage with him. On 5 February 2019, Knowles J, on a without notice basis, made a passport order against the mother on the basis that she considered that the mother was a flight risk.

- 9 In March 2019, the parties jointly applied and I approved the instruction of a child psychiatrist Dr Julet Butler to report in this case. In April 2019, the mother sought the discharge of the passport order made on 5 February. There were then further directions hearings before me. Dr Butler's report was filed and served on 10 June. On 12 June, there was a joint application for the parties to instruct Dr Janine Braier, a well renowned psychologist in the field of parental alienation, to prepare a report. She did so jointly with Ms Karen Woodall and they have thereafter filed several addendum reports. The first report of Dr Braier and Ms Woodall was filed and served on 8 July. It was proposed the parties agree and the court approve that there would be a programme of work to rectify the parental alienation and to seek to ensure that the children had a relationship with their father. That period of work lasted far longer than had ever been intended and it lasted for some 15 months. I shall refer later in this judgment to the progress and status of that programme of work.
- 10 In the summer of last year, the father and Ms A signalled that they planned to move to Marylebone. Ahead of their move, the mother also moved to Marylebone living in close distance to the father and his wife. Again, I shall refer to that matter later in the judgment.
- 11 The report of Dr Butler was agreed and she was not called to give evidence. In the course of her report, Dr Butler said:

“In particular, I was left concerned that Child B is presenting with evidence of a depressive disorder. Both children present as highly anxious in their function as a result of being exposed to the parental conflict for most of their lives.”

- 12 A little later, she said in relation to Child A:

“Child A works very hard to please her mother by fully taking part in the conflict. Child B, I think, has struggled to keep up with what his mother needs and, as a result, I think has been experienced by his mother as less helpful at times.”

- 13 Then in relation to Child A, Dr Butler said this:

“Child A has a history of being overly involved in the parents' separation from very early on. In my opinion, that has had a significant impact on her emotional development. I think she is now presenting with evidence of (1) disordered attachment development and (2) increased risk of mental health problems. Child A is intellectually an able child and is socially able. However, she is pseudo mature. By that I mean she presents as if an adult. She talks about general day-to-day things in an adult-like manner and she acts as if she is equal with the adults that she is dealing with in her life. The difficulty for her, I think, has been that this strategy has not led to her needs being met. Rather, it reassured adults, particularly her parents, that she is doing fine. Thus, they placed expectations on her of coping with situations which were beyond her emotional age and ability. She is only 13. She is

just entering adolescence, one of the most crucial and vulnerable times in a child's lifespan. She is carrying the responsibility of managing the parental conflict as she has done for a number of years. She also has a heightened sense of responsibility for her brother which, in my opinion, has now tipped into a need to control him in order to make sure that he also rejects his father. Child A has been allowed to take up this position within the family and is not being challenged by her mother. It has been recognised by her father but he has felt helpless to effect change for her as he has also remained locked in conflict with The Mother. It is going to be extremely important for Child A that her parents now recognise that the way they have finished their separation has caused her emotional harm."

14 Then later in her report, she said:

"In my opinion, Child A is triangulated within the parental conflict. Currently, she has taken up a role whereby she is the one maintaining the conflict with The Father which allows The Mother to stand back and appear to be the reasonable adult who wants to end the conflict. The Mother would state, however, it is impossible for her to do that as the children are refusing to see their dad. Thus, she cannot do anything to effect change. Child A has had to develop a complex attachment strategy in order to survive in this environment. In my opinion, in her relationship with her mother The Mother, she is presenting with a compulsive compliant compulsive caregiving attachment theory. Children who develop this attachment pattern do so in the face of persistently unavailable care. It also develops from children who have to manage unpredictable but repeated danger. Parental conflict post-separation is one of the most dangerous environments children have to survive. They learn that it is best not to present their needs or to distress adults. At best, it may not elicit any response. At worse, it could provoke attack. Children develop the strategy of being pleasing and helpful as a means of understanding."

15 Dr Butler summarised her opinions in relation to Child A in this way:

"In summary, Child A is being emotionally harmed by being triangulated within the parental conflict. She is an extremely vulnerable girl although she presents as if an adult, she is 13 years old. Emotionally, I think she is functioning at a much younger level because her parents have not parented her in a way to allow her to develop emotional maturity. She is socially able but not emotionally able to manage. As a result, she says things that lack credibility to prove her point. She presents a picture of her father which does not match how he presents as a dad. She is extremely vulnerable as a result of this situation."

16 Then finally, she said this in respect of Child A:

"Child A is at risk of developing depression and anxiety as an adolescent and an adult. These experiences risk impacting on her capacity to form safe relationships. She is at high risk of developing abusive relationships as an adult and of struggling as a parent herself. Her parents need to effect significant change soon in order to mitigate against the emotional harm that has already been done to Child A and her capacity to manage in relationships."

17 In relation to Child B, Dr Butler began with this analysis:

“In terms of acute mental health, I was most concerned about Child B. Child B is a 10-year-old boy who, in my opinion, is presenting with (1) disordered attachment development and (2) depressive disorder. Like his sister, he is currently the centre of an extremely conflictual parental separation and subject to ongoing court proceedings. Child B was 2 when his parents separated. Prior to the separation, he spent 16 months away from them in the care of his maternal grandparents. When they came back from Russia and the parents split soon afterwards, I wonder if either of them had been left with feelings of guilt that perhaps it was their fault. In my opinion, Child B is also presenting with a compulsive compliant compulsive caregiving attachment strategy. At the moment, he has to reject his father because that is what is required by his sister and mother. However, I think he is really struggling with that task. In the past, Child A dealt with a lot of the issues. This time, he is expected to be more actively rejecting. Thus, I think it is having a significant impact on him emotionally.”

18 Then she summarised the position in relation to Child B as follows:

“In summary, Child B presents as a child who has an insecure attachment relationship with both his parents. He also sees his sister as a parental figure but she also makes him anxious. Therefore, he has no one to whom he can express any feelings of loss for his dad. He sees no possibility for change in his father which is his sister’s position also. He did not think that anything could happen that he could forgive his father but as we spoke about this, he became increasingly dysfluent. By the end, he was just staring at himself in the mirror. I think he had emotionally shut down. I was concerned for his mental health. I was concerned at Child B’s mental health having met with him. I think there is evidence of depressive disorder. This was mainly manifested when he talked about school. He broke down completely and tears were rolling down his face. Child B told me, ‘Everyone thinks I’m disgusting.’ He does not feel he can tell anyone about it. He feels that people are physically moving away from him and they do not want to be close to him. I think there is a risk that he is projecting the loss of his father into school and acting it out there. Sadly, his mother is minimising of this and so he has to deal with the distress himself.”

19 Finally, she concluded the position in relation to Child B as follows:

“In summary, I think he is depressed. I think there is a risk he wishes he was dead. In my opinion, Child B is really missing his father but feels hopeless and helpless that he can change. The evidence from meeting Child A last week is that the children remain highly anxious and the meeting was controlled by The Mother. In my opinion, it was not a genuine attempt on her part to help repair the situation and it will not help the children to progress on the basis that they need to make things work.”

20 In the first report, Dr Braier and Ms Woodall made the following observations in relation to their recommendations:

“There is also a very short window of opportunity to repair Child A’s relationship with her father given her age and life stage, and, in this case, the

sibling dynamic complicates matters. Child B would be more likely to settle on his own but leaving Child A with her mother would entrench her alienation such that the court might be forced to look at the possibility of interim foster care with a temporary 90 full protective separation from the mother in respect of both children.”

21 Then a little later, they said:

“If, however, what we are seeing is the beginning of a genuine paradigm shift in The Mother as a result of a combination of absorption of material in Dr Butler’s report, intense therapy, and the process of assessment itself, there is merit in giving mother an opportunity to put substance to her claims in practice.”

22 In their final report, they put forward five options for the court to consider but did not come to a clear recommendation. That was explained in the report as follows:

“We have extended the trial phases in the hope of being able to withdraw gently. We wanted to confidently recommend a permanent 50/50 care arrangement for this family. Whilst matters are much improved with the children in a position of a more regulated relationship with their father, the dynamics remain the risks of regression back to rejection of the father are still unacceptably high so that it has not been possible to withdraw or make this firm recommendation. Extending of the trial again, however, is unlikely to give court any further information on the family dynamic nor is it likely to produce significant change in any sensible timescales so as to increase our confidence in the sustainability of the current arrangements. Our view now, after 15 months’ involvement, is that ongoing proceedings are unhelpful for these children who need a decision on a more permanent arrangement to support them through the difficult teenagers. We have worked hard to support equal joint care with variable success reflecting carefully on whether any other arrangement might be more sustainable. In doing so, we noted the dynamics of this particular family; the life stage of these children; the scars of alienation in both children and their father; their lasting preference for the maternal family; the proximity of the parents’ home; and our concerns around further incidents of splitting with increasingly dim prospects of resettling the children with each crisis encountered. Despite our best efforts, we have not been able to arrive at a point where we can confidently guarantee the sustainability of any child arrangement as each option contains its own set of issues for this family. We therefore respectfully set out our thinking in relation to the benefits and risk of each, as we see it, leaving the court to decide, on balance, which one is likely to be most sustainable and therefore in the children’s best interests.”

23 A little later in the report, they observed as follows:

“Dr Butler expressed concerns about Child B’s mental health last year saying that he was suffering from depressive disorder as a result of his triangulation and loss of his father, suggesting that if there is any evidence that his mental health is deteriorating, I would recommend he is pleased with his father and therapeutic support would be provided for The Father to care for him. Given the extent of splitting seen again in Child B recently,

Karen [that is Ms Woodall] is very concerned that he would be unlikely to be resettled a third time in any joint care arrangement losing his relationship with his father. Child A, whilst currently looking more stable and presenting well, may be overcompensating to make things work for her mum and remains at risk. Child B may heal but should there be further occurrence of severe splitting in either child, the potential insurmountable challenge of yet another reintegration at that stage means the court may, under such conditions, need immediate consideration of a residence transfer to help the children retain their relationship with their father. Whilst this is also not guaranteed to be effective or sustainable for these children for the reasons outlined, Dr Butler raised serious child protection issues last June which have not entirely disappeared. In the context of further significant difficulty in the future, a transfer of residence may still present a better prospect of a more normal life for these children than the draconian solution of removal into foster care independently managed by the local authority to secure access to both parents.”

- 24 On 6 October 2020, there was an episode of when Child B left his father’s home with a kitchen knife which caused very grave concern for all concerned. In relation to that incident, Dr Braier and Ms Woodall observed as follows:

“This incident, when analysed within the overall chronology of events leading to it, demonstrates that not only has much effort been needed so that it remained impossible to withdraw but it has taken very little to completely destabilise the relationship between Child B and his father with a high risk of repeated rejection of the father moving forward.”

- 25 Then in their conclusion, they observed in relation to Child B as follows:

“It became apparent that Child B was entering into the severely split state of mind which is seen when children decide for themselves they must take control of the family system. In meeting with Dr Braier and his mother, Child B showed that he could not listen to either feeling none of the adults understood him. The breach of parental and adult authority in his life is deeply worrying at his age and demonstrates the risk that Child B may go beyond parental control should this family system become destabilised again. The fact that this happened whilst professionals with expertise in working in these scenarios were heavily involved with the family is deeply concerning. Restarting the relationship between a child and a parent after they have become alienated from is possible once and even twice. However, without our considerable input in this second eruption of Child B’s rejecting behaviour, this could not have been achieved. I very much doubt it would be possible to achieve it again should there be another instance of rejection which raises safeguarding concerns. Given Child B’s age, if he returns to rejecting his father as a method of coping with the dynamics around him and the impact of being alienated once, there is a risk he may not be in a place where the relationship with his father can be repaired in his minority years. We have seen manageable slippage in Child A but in such circumstances, it is likely to be much harder for Child A to get over any such slippages to sustain her own relationship with the father. The risk is of her entering into alignment with the mother. Voting with her feet and rejecting her father will be significantly raised. Children who are split can become extremely rigid in their belief that they have the right to do as

they feel resisting very strongly any attempts to restore the relationship with a targeted parent. This can sometimes extend to both parents maintaining the belief that no one is listening to them, escalating resistance to all efforts to intervene. In such situations, children can move beyond parental control to the point where the risks are so high that removal into foster care may be the only viable option.”

26 In relation to the mother, Dr Braier and Ms Woodall said as follows:

“There is a repeated theme of The Mother of inability to make decisions which are in the best interests of the children. The Mother has had to have significant input to be able to make even the simplest of decisions. Whilst this may be put down to The Mother’s anxiety about wanting to get it right, there is also a sense of abdication of parental responsibility to professionals and at times to The Father. Again, one could argue this is because The Mother is anxious about being scrutinised. However, during times when Ms Woodall has stepped back and enabled Ms The Mother to take a more free rein approach, encouraging her to write emails herself and engage with The Father directly, it has become apparent how difficult The Mother finds it to make child focused decisions about what is right for the children in the range of circumstances.”

27 Then finally in respect of the mother, they observed as follows:

“The Mother has worked hard and is no longer an active negative influence but, in many ways, her responses are not necessarily very different to what was seen in 2018. The Mother wants to do the right thing and be seen to be doing so. As such, can do this very well, taking advice in the moment from others and acting on it but we had been hoping she would have developed her own repertoire a little further. In using not only myself, Karen, or her own therapist but also Carol Edwards, she is not developing, learning, or generalising sufficiently. This is the case despite repeated attempts to get her to focus on absorbing principles rather than rules, to enable her support of the whole situation to become more natural and emotionally congruent, rather than needing to be scripted. The Mother’s strategy in seeking and implementing advice as faithfully as possible to ensure she avoids errors may provide sensible and helpful in the moment responses but also results in splitting the larger support team around her to include those without a holistic view of the family dynamics. As such, The Mother unwittingly worsened the problem of inconsistency already produced by her own changing moods or priorities rather than working from core principles. Understanding The Mother’s struggle here may be helped by a reminder of her psychological profile. I have never believed The Mother was consciously deceiving but it is hard for those with histrionic features like her to admit their mistakes. More preoccupied with the impression they make than their actions, they will typically selectively filter finding justifications for their own behaviour, literally forgetting what they do, not want to know, say things which are not true without actually being aware of it. That is not in the sense of awkwardness of lying or a bad conscience because they are generally sincere in the moment and believe their own accounts. They are simply unpredictable and changeable tending to repress matters which contradict their self-perception, current mood, attitudes or values, marshalling narratives to suit the moment. At their best, people with this

profile are spontaneous, creative, high achievers, who are super friendly and nice inspiring others with their emotions, easily infatuated and highly engaged with new people or ideas with passion but may just as easily become bored or lose interest in previous ones so they seem inconsistent in this way too. Recall of misdeeds, mistakes, or different attitudes is no longer there in consciousness, so that people with this profile often present as earnest and offended, their lack of insight and self-justification leaving them with no sense of embarrassment, only hurt about being blamed, seen as inconsistent, or questioned at all. When accused, they may dismiss the problem with indignation by using rejection dynamics identifying examples of the accuser of engaging in the alleged abuse, if not instead then at least as much. The Mother's behaviour on the night [that is 6 October] was outstanding in getting Child B home, as was her participation in the repair in my consulting rooms, even if she omitted to tell anyone that she had failed to proactively inform The Father and Child A of Child B's distressed texts and calls to her that night before he ran out. However, having responded to the crisis, when it died down, she re-framed her narrative with several threats implicating The Father as failing to engage in sensible actions typically but not exclusively suggested by her to prevent the incident thereby implicating The Father and exonerative herself. This, together with a refusal to collaborate with any possibility that she herself had any relevant stressors nor, indeed, could have acted in any way other than perfectly in the summer lead up meant her acknowledgement of responsibility for Child B's rejection of his dad then felt somewhat hollow. One of the problems with this profile in the current family dynamic is their capacity to sense who they are talking to and adapt their narrative, sincerely say what they feel that person wants to hear. The problem is that when exposed to a different audience, they can formulate very different ideas depending on the situation. This helps to understand how The Mother is genuinely doing her best and making significant efforts when she speaks to Karen, to The Father, and to the children but manages to produce quite a different narrative as needed. She truly wants to get it right all round to please the children, The Father, and the professionals but struggles to integrate what she needs to do. She cannot please everyone or create a consistent enough narrative to suit in the way others can when they emanate from core principles of their own internal coherent compass."

## **THE EVIDENCE**

- 28 Ms Woodall gave evidence first. She told me that the immense amount of hard work required to support the family over the entire 15-month programme. Despite attempts to draw back and reduce the amount of support, this was never achieved. Ms Woodall, or occasionally Dr Braier, were constantly engaged in crisis management and firefighting. The initial contact visit in 2019 between the father and the children had, she said, been a pleasure to observe. It had been clear there was a strong bond between the father and the children.
- 29 As time moved on in the programme, a dissonance became apparent between the demeanour and behaviour of the children towards the father when they were in his care with his wife, Ms A, and then when they were in the care of the mother. The mother, she told me, holds the balance of power in respect of the children's vulnerabilities. The mother's words do not match her behaviour. Her decision to move to Marylebone when she knew the father and his wife had already decided to move to live in this area, and her failure to abide by the father's request for her not to move so close to his new home, are clear examples of this

feature of the mother's functioning. In similar vein was her repeated request to join the same gym as a father's wife. Ms Woodall was of the view that it had been unhelpful for the mother to live in such close proximity to the father.

- 30 Ms Woodall could not see from her experience in the 15 months of the programme of work how the mother could make any more progress. There had continued to be leakage of information by the mother to the children. In her view, further work to support the 50/50 shared care arrangement was not warranted.
- 31 She accepted, as was set out in her and Dr Braier's final joint report, that each of the proposed five options for the future care of the children carried risks of harm or of placement breakdown for one or both children. She expressed a view that there were risks involved in treating the care of Child A and Child B separately. Both children had experienced slippage in their respective relationships with their father over the course of the programme. Both children were at risk of future harm but most especially Child B. There was, she said, a dire risk that he could move to a point where he was beyond the control of either parent.
- 32 In her evidence, Dr Braier said she agreed with Dr Butler's assessment and with her prognosis. She described in some detail the potential adverse consequences for both children if they continue to suffer parental alienation and splitting from their father. Both children would be at real risk of a failure to develop a sense of self, depression, lack of trust, a great sense of shame, and an inability to secure healthy future relationships. These adverse consequences are intergenerational and both Child A and Child B could be at risk of suffering alienation issues with any children they may have. They are at risk of physical and emotional harm which would be dangerous for them. They may each engage in forms of self-harm and be unable to self-regulate their emotions. So grave were the risks of harm to the children, as described by Dr Braier, that the father was visibly distressed as she gave this evidence.
- 33 The window of opportunity for the children to repair their relationships with their father is narrow. If Child B were to suffer another split with his father, Dr Braier doubted the relationship could be repaired. Unless Child A and Child B could be supported to enjoy a consistent and stable relationship with the father, they were both at risk of having to be placed in local authority foster care which, Dr Braier told me, would be a disaster for both children. Dr Braier did not consider that Child A and Child B's care arrangements should be considered separately because (a) they have a very close relationship and (b) it would be unlikely Child B that would settle if he was placed separately from Child A.
- 34 Child B is currently alienated and split from his father. Child A is in a different place from Child B but she is scarred and has a permanent vulnerability to her mother's changes of mood and emotions. When the mother is motivated and on point, she can be impressive, as she was on the night of 6 October when Child B left his father's home with a kitchen knife. She met with Child B and returned him to his father's home. If she could stay on point consistently, this would be a stable family with the children able to move between their parents' respective homes. The best outcome for these children would be a shared care arrangement but it has not worked and the amount of work to support the arrangement is simply not sustainable.
- 35 Moreover, the mother's ability to be on point and not to alienate the children from their father has not been consistent. Indeed, being inconsistent on this issue and other aspects of her functioning are part of her psychological profile. It is because of her profile that Dr Braier said that the mother could not do more. She has reached the ceiling of progress she is

able to make. Dr Braier had noted a shift in the mother's attitude since the summer of this year and that she is not trying hard to be on point.

- 36 The father was very measured in his evidence. He told me that, at the moment, Child B is pretty much unmanageable and looking after him is like walking on eggshells. Child A is overcompensating by being too good and too compliant, which the father considered to be unhealthy and did not bode well for her future wellbeing. He considered that a shared care arrangement should have been the ideal solution for all but it has simply not worked even with the unfailing assistance of Dr Braier and Ms Woodall. The father struggled in deciding whether an 80/20 care arrangement or a full transfer of care to him and supervised contact only to the mother would be in the best interests of the children. He was content to be guided by the professionals and by the court.
- 37 He told me the mother loves the children and would not have intended to harm them but the children's lives have revolved around the mother's needs. The father regretted the mother's decision to move to Marylebone. For the future, he would wish her to move and live at least 30 minutes away from his and his wife's home. He contemplated that the mother might decide to return to Russia where all of the mother's family. For the future, the father considered the mother remains a flight risk of taking the children to Russia. He recognised her long connection to living in London but feared that her histrionic personality could result in her acting in the moment if she thought she was losing the children and would leave the country with them. Further, given the opinions of the experts and the inability of the mother to remain on point, he would be concerned about the wellbeing of the children if they were to spend any appreciable period of time in their mother's sole care.
- 38 Ms A told me that she would support the decision of the court. She accepted there would be difficulties for the children in accepting and settling with any care arrangement ordered by the court. Mrs Blank considered that there were aspects of the mother's functioning and parenting which were harmful to the children.
- 39 The mother started her evidence by telling me that she felt a bit ashamed at some of the matters she had said about the father in her witness statement. She told me that in the past, she would make up stories in her head which she then set out in her statements. She said she was sorry for what she had done and that The Father was a great father. She said she had been very concerned about the prognosis given by Dr Butler about the children in her report and that when she had read Dr Butler's report, she had realised, she said, that she had gone too far.
- 40 The mother accepted she was not perfect and accepted she was more on point when she was frightened of losing the children. She confirmed she was frightened now. In response to Dr Braier's criticisms of her, she said she thought she had been doing her best but that she would do better in the future. She had told me that since the summer of 2019, everything had changed. She said the children have been stable. The mother said she will support whatever order is made by the court in respect of Child A and Child B. The mother sought to show me that she had no intention of permanently removing the children to Russia or anywhere else but she did accept that the father had concerns about her taking the children to Russia.
- 41 There were a number of aspects of her mother's evidence which caused me concern, namely:
- (a) In relation to her move to Marylebone, she told me she did not think it was a big issue. Later in her evidence, she accepted it had been a mistake but could not give a credible

explanation of why she had pursued the move even after the father had sent her an email in which he had made a perfectly reasonable and polite request for her not to move to Marylebone;

- (b) Further, when attempting to explain her move to the same area of London as the father, she implied that Ms Woodall had supported her plan, when I accept that Ms Woodall most assuredly had not done so;
- (c) The mother had asserted that everything had changed since the summer of 2019 and that the children had been stable. In light of the events of the last 15 months and the opinions of Dr Braier and Ms Woodall, nothing could be further from the actuality of this case; and
- (d) The mother's case that the 50-50 shared care arrangements should continue because it worked flew in the face of all the other evidence presented to me and was patently not achievable.

42 The foregoing matters are either examples of the mother re-ordering events in her mind to fit her view of the world, or they are graphic illustrations of the father's assertion that the children's lives revolved around the emotional and psychological needs of the mother.

### **DISCUSSION AND ANALYSIS**

43 As was presaged by emails sent to the court a week before last, this hearing commenced with Miss Wood QC, leading counsel for the mother, making an application to adjourn this final hearing. The application was opposed by Miss Bazley QC, leading counsel for the father. The essence of the application rested on the fact that:

- (a) Dr Braier and Ms Woodall's final report had been received just four working days before this final hearing;
- (b) There had been insufficient time for the mother to absorb the full content of the report come;
- (c) There were issues about the context of some of Ms Woodall's opinions and conclusions which the mother wished to challenge;
- (d) The mother wished to file further evidence but had not had time to do so; and
- (e) As a result, the mother would not be afforded an Art. 6 compliant fair hearing.

44 On the basis that it emerged that (a) the mother had over the course of the weekend given instructions to Miss Wood on the experts' report, (b) the experts' advice that the children needed a clear decision about their future now, and (c) an adjournment would have delayed the hearing of this case by at least four months, I refused the application. I was satisfied that the balance fell in the children's welfare best interests of proceeding with the hearing. I agreed, however, to keep the matter under review and that the application could be renewed at the conclusion of the evidence. It was not renewed.

45 There was no challenge to the report of Dr Butler. She was not called to give evidence and, without reservation, I accept all of her opinions and conclusions.

46 There was no serious or credible challenge to the essential and underlying opinions and recommendations of Dr Braier and Ms Woodall. In any event, having had the benefit of

reading the written evidence and hearing the oral evidence of the experts, the father, Mrs Blank, and the mother, I have no hesitation in accepting the evidence of Dr Braier and Ms Woodall. They had both made extraordinary efforts on the basis of their vast combined experience and expertise of parental alienation to find a beneficial solution for this family. As they accepted, and much to their respective professional disappointment, they have failed to do so. Why?

- 47 Whatever may have been the case in the past, by the summer of 2019, Dr Braier did not consider the mother was engaged in a process of disguised compliance. Neither did the experts consider, which accorded with the father's evidence, that the mother was deliberately intending to harm the children by alienating them from their father. Rather, she either did not know that her actions, behaviour, or emotional state was having an adverse impact upon the children and with their relationship with their father, and/or she had re-ordered matters in her mind to conform with her view of the world and avoid her coming to that conclusion that she had been causing harm to the children. In many ways, this is the worst possible of conclusions. If the mother does not and/or cannot, because of her psychological profile, be aware or know of the serious harm she is causing her children now and potentially for the whole of their lives, how is she to change? This is why the experts asserted that the mother had changed as far as she can go but she has reached her ceiling and no further changes are possible.
- 48 There have been occasional glimmers of hope from when it appeared that the mother had gained some insight into the adverse consequences of her actions and function. Her actions on 6 October in finding Child B returning him to his father's care is a principal example of this. It was not and never has been consistent or sustained. The future welfare of the children demands and requires that it must be consistent and sustained because if it is not, the children will suffer serious harm and potentially irreparable serious harm. For the reasons I have given, there is no basis for me to conclude that, at least for the foreseeable future, there is any reason to believe the mother will be capable of being on point consistently or for any sustained period of time. Her psychological profile precludes her from doing so.
- 49 The last trial of shared care on a 50-50 basis has been an abject failure. It required a degree of support from very experienced professionals that is unsustainable. Even with this degree of support, Child B had split from his father and in his father's words, he was pretty unmanageable. Child A has adopted a style of perfect and compliant behaviour which is, I find, of a agree which is unnatural and unhealthy in an intelligent and assertive young teenager. The mother's case to continue with this regime of 50/50 care is not just hopeless and doomed, but it very graphically demonstrated her lack of insight, her detachment from reality, and her inability to put the welfare of the children to the fore as opposed to those of her own needs.
- 50 The father plainly loves his children but he fears for the well-being of Child A and Child B now and for their future lives and he fears for his relationship with them. He told me that at an early stage in his relationship with his now wife, he had told her that the children were the two most important people in his life. At times in the past, the father had acted in a way or made decisions about the children which was not wise, as Dr Butler made clear in her report. I am satisfied, however, that his focus now is the welfare best interests of the children. In all of the circumstances of this case, I am wholly satisfied that he is able to meet the best interests of the children and will provide them with a stable, secure, and loving home together with his wife Ms A. Mrs Blank has no wish or desire to replace the mother. She saw herself as a friend of and confidante to the children.

- 51 The five options offered by the experts were:
- (1) A full transfer to the father's care with only supervised or monitored contact with the mother;
  - (2) Shared care on an 80/20 basis in favour of the father;
  - (3) A 70/30 basis;
  - (4) A 65/35 basis; or
  - (5) The present shared care of 50/50.
- 52 I do not consider that any of these options meet the welfare best interests of the children. I have already explained why I consider the present 50/50 shared care is neither in the welfare best interests of the children nor sustainable. I acknowledge that it is agreed that if the children were asked for their views, it is likely they would prefer the current 50/50 shared care arrangement to continue. It has to be borne in mind, however, that although the children love their mother and are aligned with her:
- (a) She has caused and is causing them emotional and psychological harm by alienating or splitting the children from their father; and
  - (b) They remain vulnerable to her changes of mood and behaviour most especially Child A.
- 53 I accept that all of the five options carry risks of one sort or another for the children. The risks which concern me the greatest are that:
- (a) Child A and/or Child B will once again be alienated or split from their father with the consequence that it will not then be possible to repair the relationship between them; and/or
  - (b) The adverse consequences of their alienation from their father would render one or both of them beyond the control of either parent and/or results in the decision that one or both of them in their welfare best interests be placed in foster care.
- I agree with Dr Braier that such an outcome would be a disaster for these bright and intelligent children.
- 54 I therefore have to find a solution to this family's crisis which seeks to achieve a balance between the following competing factors:
- (a) One or other of the children rejecting the very limited contact with their mother and voting with their feet and leaving their father's care and/or disengaging with him; and
  - (b) Contact with the mother taking place at such a frequency and for such a prolonged period that the mother's malign influence results in the children being once again alienated or split from their father.
- 55 In my judgment, the balance referred to above is met and the adverse consequences that I have referred to above are best ameliorated by the following care regime being ordered by the court, namely:

- (1) The children shall live with their father;
  - (2) For the first month of this regime, the mother shall have no contact with the children. The only proviso is that if the mother accepts my judgment and Ms Woodall considers it in the best interests of the children, there may be:
    - (i) A telephone call between the children and the mother supervised by Ms Woodall in the days after my judgment for the mother to reassure the children that she is well; and
    - (ii) If Ms Woodall considers it appropriate, a telephone call between the children and the mother over the Christmas period, supervised by Ms Woodall or, if she agrees, by Mrs Blank;
  - (3) After this period of one month and assuming all has gone well, the mother should have supervised contact, preferably supervised by Ms Woodall, once every three weeks for a period of four hours;
  - (4) After a further period of three months, the mother shall have staying contact with the children once every three weeks from a Friday evening until a Sunday evening; and
  - (5) The mother will have staying contact in the holidays thereafter, one week at Christmas, one week at Easter, and for two weeks on two separate occasions during the summer school holiday.
- 56 The mother will be prohibited from removing the children from England and Wales until they attain their majority. The mother may now present a lower modest flight risk of removing the children from the jurisdiction but I agree with the father's assertion that despite the mother's connection to this country, her psychological profile may cause her to act in the moment to remove the children to Russia. The risk may be low or moderate but the consequence of removal is grave because the prospects of securing the return to this jurisdiction from Russia in respect of children who hold Russian passports is close to nil. The passport order will be discharged to the extent that the children's passports will be released by the tipstaff to the father and the mother's passport will be retained by the tipstaff for a further period of two years.

## **CONCLUSION**

- 57 A child arrangements order will be made in the terms that I have set out above. Either party and/or Mrs Woodall will have liberty to apply for urgent directions made by email to my clerk. Any further applications in respect of these children, whether issued or to be issued, will be reserved to me. I am completely satisfied that the child arrangements order detailed by me above meets the needs of the children and most likely is the one which enables them to overcome the emotional and psychological harm which they have suffered and are suffering at the hands of their mother.
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**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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**This transcript has been approved by the Judge**