

RE: A : JUDGMENT : URGENT CHANGE OF RESIDENCE TO FATHER

Neutral Citation Number: [2024] EWFC 327 (B)

**IN THE FAMILY COURT AT CREWE AND CHESTER
IN THE MATTER OF THE CHILDREN ACT 1989
REGARDING A
BEFORE HER HONOUR JUDGE HESFORD**

Date: 11 September 2024

BETWEEN

FATHER

- AND -

MOTHER

- AND -

**THE CHILD
(by her children's guardian)**

JUDGMENT – URGENT CHANGE OF INTERIM RESIDENCE

For the Father:	Counsel:	Sarah Sammon
For the Mother:	Counsel:	Dominic Cooper
For the Child:	Solicitor:	Danielle Turner

IMPORTANT NOTE TO JUDGMENT

1. This judgment was written and handed down specifically to address the evidence and decision making process of the court and the factual basis upon which the order would have been made if contested. It addresses the evidence and the decision which the court would have made if the matter had been contested. It was written particularly for the benefit of the mother and her legal team, as well as the father and guardian.
2. It is noted that ultimately the mother did not contest the immediate interim change of residence for A but the court considers it to be important that the decision and reasoning are clear for the future progress of the matter. The mother's conduct in

accepting the order was of some concern in view of her historic position and it is fair to say that her demeanour was extremely flat at court. Whilst the court did not have concerns about her capacity within the proceedings, the court was deeply concerned about the mother's wellbeing and mental health, both historic and from today.

3. It also transpired that the child was at the mother's home with a carer and both were locked in the house, unable to leave as the mother had deliberately left taking both sets of keys with her to court. The police were immediately called to attend urgently to ensure safety and also to assist with the transfer of residence thereafter if necessary.
4. Prior to the commencement of the hearing the court had ensured that the local authority and police were aware that an immediate change of residence to the father was a likely outcome of the hearing and their assistance and support would be required to ensure a safe handover with as little distress to child and mother if the decision was indeed for a change of residence.
5. With the exception of the Guardian confirming that her position was as stated in her position statement and addressing the issue of contact briefly, no evidence was called or challenged. In fact, the Guardian's worries had deepened having read the local authority evidence and spoken to the social worker.

INTRODUCTION AND THE APPLICATION TODAY

6. I am concerned with A who is now a toddler. This is the father's application for a Child Arrangements Order, including an immediate and urgent transfer of residence. There were previous proceedings commenced in 2023 where the father sought contact and these were compromised by way of an order earlier this year, which provided for A to live with her mother and for the father to spend increasing amounts of time with A including overnight contact. It is important that I note that the recommendation of CAFCASS at that time was for A to move area and to live with her father. At the time this was not pursued by father. I have had conduct of the matter throughout.
7. The urgent application before the court today concerns the father's application for a change of residence, for A to reside with him rather than the mother with whom she

has lived since birth. Following the issue of the application, I listed an urgent hearing (which initially had to be adjourned and relisted due to administrative issues) and appointed a Guardian and Solicitor for A pursuant to S. 16(4) CA 1989. Ms D was appointed as Guardian and the matter was listed for an urgent hearing. Ms Turner, Solicitor for A, filed a position statement on behalf of the Guardian which recommended an immediate change of residence as well as a S. 37 CA 1989 direction, an order for a psychological assessment of the mother and for the mother to have only supervised contact. The application was listed urgently upon receipt of the information from CAFCASS. I will address the position statement in more detail later.

8. The father had already set out his position in his application. The mother, at the time acting without legal representation, filed her own position statement in reply opposing the application. I will address this later.
9. All parties attended the first hearing, including newly consulted and appointed solicitors for the mother. I listed this further hearing today in order to allow the mother to properly instruct her solicitors and for all parties to file statements in relation to the urgent issue of change of residence to father. I have received statements from mother and father. Their positions remain as before. The father today sought an order for immediate change of residence. The mother initially opposed this but ultimately consented. The Guardian supported the father.
10. The matter ultimately and indeed surprisingly proceeded today on an unopposed basis.
11. In view of the issues in this matter and with the agreement of the advocates, I confirmed that a detailed judgment would follow in writing, it was not appropriate for the court to merely sanction mother's late agreement without explaining why.
12. I have read the entire bundle of papers including those from the previous application, all of which are pertinent for today – particularly the evidence from CAFCASS.

THE BACKGROUND AND THE FATHER'S ORIGINAL APPLICATION

13. The parties are unmarried. Their relationship ended when A was some months old. Mother moved from where they had lived together to a different area. Following separation, contact took place on a supervised basis (by the mother and at her insistence) but attempts by father to increase the time and reduce supervision arrangements could not be agreed and the initial application was filed in Summer 2023. Father had continued to travel a long distance for contact on alternate weekends.
14. Within the safeguarding letter, the mother made a variety of allegations against the father which were suggestive of abuse by the father against A, including hinting at sexual abuse. Her evidence for these included video evidence of father putting his “nose in A’s eyes” and “moving his fingers under A’s nappy area”. She also alleged that the father had mental health issues.
15. She repeated these allegations in her statements, whilst acting without representation. Her position was that the father was a risk to A and should not be allowed to have any unsupervised contact with him until she was older, able to vocalise her wishes and able to make up her own mind. In her final statement in the earlier proceedings she stated [I] “want her to make decisions in relation to living arrangements herself when she is an adult in order to prevent harm or any the risk of harm” and she wanted “A safeguarded and contact stopped.”
16. She also repeated her allegations to the local authority. They took no further action.
17. During the initial proceedings, I indicated to the mother that I did not accept that there was any evidence before the court that the father had abused A or was likely to abuse her and that the evidence which she had filed and relied upon did not satisfy or even come close to satisfying the civil burden of proof. No fact finding was to take place, as this was neither necessary nor proportionate. I also did not accept that at [x] months of age, A cannot be left unsupervised with her father or that she must be of a specific age or able to talk before she can be left unsupervised with her father. I carefully explained these matters to the mother at the court hearings, as she was unrepresented, and they were set out in the recitals to the orders. The mother refused to increase contact and the matter was listed for a further hearing and a report from CAFCASS was also ordered as well as a letter from the local authority.

18. The matter was reviewed in early 2024. The CAFCASS officer, in a very detailed analysis, recommended contact increasing gradually to overnight and expressed concern that if this had not happened, A could be at risk of emotional harm if she remained in her mother's care. The mother's position remained the same as before, repeating all of her allegations, relying on the same "evidence" as fact. The CAFCASS officer considered various hypotheses for the mother's behaviour: being an overanxious parent; being critical and controlling of the father to marginalise him from A; exhibiting alienating behaviours or that the father was indeed a risk of harm to A. She dismissed the final hypothesis as being without any evidence. She also expressed concerns about whether the mother would promote contact or abide by a court order. She urged the court to spell out very clearly to the mother the possible implications of not complying with a court order. The court did this and clearly informed mother that if she persisted with her unfounded allegations and refused to progress contact, a change of residence to father was a realistic possibility. The father was not at the time pushing for this. Again the position was recorded in the court order and the mother confirmed that she understood.
19. The mother was invited to reconsider her position with a view to extending contact and reviewing again, and although she initially refused to agree to any extension to contact whatsoever, ultimately she agreed to proceed with the extension recommended by CAFCASS. In the absence of agreement, she was informed that the court would list a contested hearing.
20. Contact was to increase over time to 6 hours, unsupervised, and then be reviewed at a further hearing.
21. At the further hearing the mother was represented by solicitors and counsel. Following discussions and submissions, the following final order was made by agreement:

Child arrangements order

15. The child shall live with the mother and spend time with the father as follows;

a) On Saturday overnight until Sunday evening at 6.00 pm on an alternate weekly basis commencing at 11am on x 2024

b) The overnight stays shall take place in the [mother's local] area from x 2024 to until the end of x 2024

c) The overnight stays will then alternate between taking place in [mothers and father's local areas] from x 2024 and until the end of x 2024

d) The overnight stays should then take place at the father's home on alternate weekend from x 2025 onwards

e) There should also be additional contact, including contact over the Christmas period, as can be agreed between the parties

f) The father will communicate any changes to his travel arrangements as a result of using public transport as soon as possible to the mother via the Family Wizard App save for emergencies and the parties will communicate arrangements via the Our Family Wizard app save for emergencies.

g) The father shall be responsible for all travel and accommodation costs when spending time with the child

22. The order also records that the mother said that her concerns about the father were subsiding and that the parents agreed that they would utilise Our Family Wizard as a method of communication to prevent misunderstandings or disagreements.

EVENTS SINCE THE MAKING OF THE FINAL ORDER

23. Overnight contact was then due to commence days later. It did not. Mother refused to allow overnight contact and indeed allowed no contact at all on the first day, with only 4 hours on the second day.

24. From the local authority evidence, it transpires that the mother's next action was to report the father to the police and again accuse him of abusing A – using the same discredited evidence as before. The following is set out in the statement from the local authority x September:

On the x 2024, the Local Authority received an email from the police. Mother had reported concerns to the police that A was being abused by her father. Police have reviewed video footage of the alleged abuse and are satisfied that the allegations are false.

They have observed positive interactions and raised no safeguarding concerns regarding A's interaction with her father. However, police have raised concern regarding mother; she advises that there is a court order in place regarding contact which she does not intend to comply with. Therefore, concern is raised that this may impact upon A's relationship with her father. Current concerns are the toys Father has bought A are rubbery and they are for ages 3 years+, also when A comes back from spending time with Father, she is floppy; Mother is therefore worried that Father is putting something in A's drink.

25. Overnight contact was permitted by the mother on x June but a tracking device was (secretly) sent with the child.
26. On x June Social Services contacted the father following the referral from the police.
27. On x June the father's solicitors again write to the mother's solicitors about her behaviour such as recording the father on handovers, sending a tracking device with the child and refusing to communicate via the Our Family Wizard App.
28. Overnight contact was permitted by the mother on x-x June but again a tracking device was (secretly) sent with the child.
29. On x June mother took A to hospital. The following is set out in the statement from the local authority dated x September:

On x June 2024, the Local Authority received a telephone call from x Hospital. Mother had attended A&E that evening, raising concern that she believes A has been given sleeping pills by her father. Mother advised that when she collected A from her father, A was stumbling around which is unlike her and she appeared very tired. Mother believed Father was therefore drugging A with sleeping pills. A was checked over by a nurse, who advised she was unable to see any signs of this and observations were fine. The staff at the hospital agreed to complete a urine toxicology and blood gas test which would identify whether there were any immediate health concerns. Mother advised the nurse that she had previous concerns about Father when they were in a relationship, including catching him with his hand between A's legs and on another occasion covering A's face with a

blanket. Due to the concerns for Mother's mental health, it was agreed for A to remain in hospital overnight for social admission and overnight observation.

30. As a result of this referral the local authority's Child Protection team have become involved. Mother has made no similar allegations since then and does not seek any local authority involvement. Father seeks the support of the Local Authority at this time purely because of the risks concerned with mother's behaviour towards him and A, not as a result of any concerns about his own ability to care for A. The following is set out in the statement from the local authority dated x September:

"Whilst the Local Authority have observed only positive interactions between A and her mother throughout the assessment period thus far, the Local Authority are concerned that the above information appears to indicate that there have been serious and significant allegations made against Father by Mother throughout A's life, which appear to have been unfounded to date. The Local Authority therefore are concerned that, if nothing changes, A may be placed at risk of emotional harm, either through the mother alienating A from the father, or A becoming subject to further unnecessary medical testing in the future due to Mother's anxieties."

31. Father's application was issued on x. Due to administrative issues (the court order appointing a Guardian going astray) the matter could only be heard on x and was then listed today for a contested hearing.

THE URGENT ISSUE OF INTERIM RESIDENCE

32. The recommendations of the Guardian in the position statement are clear, that the actions on the part of the mother will cause significant harm to A and she has already potentially suffered emotional and psychological harm in the care of her mother by having unnecessary medical tests and a stay in hospital.
33. In the opinion of the Guardian *"There is clear evidence of alienating behaviours which are extreme. The Guardian questions what further lengths Mother will go to and ultimately the Guardian is concerned for A's safety in [her mother's] care."*
34. The Guardian clearly agrees with the opinion of the previous CAFCASS officer and indeed repeats and adopts relevant part of her report in her own position statement, including the recommended change of residence. These relate to the mother's continued false allegations against the father and her beliefs that the mother is

exploiting the father for her own personal gain and controlling A's relationship with him through fear.

35. From her own enquiries, it was clear that the mother, having taken A to hospital and spoken to the health visitor and police, stood by her previous concerns and false allegations.
36. Indeed since the proceedings have concluded, the mother has made further unsupported allegations against the father as well as repeating her earlier allegations. The Guardian confirms that she considers A to be at risk of significant harm in the care of her mother, the threshold for public law proceedings, as I will address shortly. She also recommends that mother's contact should be supervised, as well as for the mother to undergo a psychological assessment.
37. The mother's response to the position statement from the Guardian (before she instructed solicitors) was to accuse the Guardian of failing to act in A's best interests – "it is the safety and wellbeing of the child that matters". She further, wholly erroneously, claimed that the father has now accepted that all of her previous allegations were true and repeated that the father poses a risk to A. It is clear from her statement that she stands by all of her previous wholly unsubstantiated allegations and remains convinced that she is correct, she even claims that she has suffered harm herself by seeing A harmed. Her spurious allegations have been dismissed by the local authority, health visitor, father, the police, the court and two CAFCASS officers yet she continues to repeat them.
38. In relation to her use of a tracking device, she argued that this was in common usage for parents and was more concerned about why the father should be concerned about its use rather than her own actions. She submitted that the father posed an emotional risk to A and it should be he who should be the subject of a psychological assessment rather than herself.
39. The mother's further position statement, filed with the benefit of legal advice, mentions none of her previous specific allegations and states that A was poorly on the weekend immediately following the final order and she seeks to excuse the use of the tracking device as being merely a practical matter for A's bag "to keep track of important items used for her wellbeing". I simply do not accept this. Tracking devices of any nature are not commonly used at all, but of further relevance in this

matter, it was not actually used on the bag for important items as mother claimed was its purpose, but was concealed in various locations including her coat and her pram according to the father. Nor was its existence revealed to the father by the mother. Use of the device only stopped in mid August after the father's solicitors wrote to the mother's former solicitors about it. In my judgment this was a deliberate and deceitful attempt by the mother to monitor the father and A's time together.

40. Her explanation/excuses in relation to using the Our Family Wizard App also do not ring true. The use of the App was discussed and agreed at court – to prevent issues with communication. It is only since the hearing at the end of August that she has apparently used the App but it should have been used since May, as formally agreed at court and recorded in the order. Instead she chose to record the father at handover and has attempted to control the father via methods of communication. The cost of OFW is approximately £9 per month per parent – an insignificant amount for the mother to contribute for A's welfare particularly compared to the extremely high costs of the father's travel and accommodation for contact etc over a long period of time. Indeed there is a 30 day free trial and it can be free in certain circumstances (such as being in receipt of universal credit – which the mother used as an excuse not to use the App). This is done via a "fee waiver", which the mother would know if she had activated the App and she should have been able to provide contemporaneous proof of her efforts in relation to the same – none has been provided. Instead she simply chose to ignore the court order. Now she says she is willing to use the App and indeed her use of it has been to request money from the father for May nursery fees.

41. The father's position statement sets out a detailed plan for caring for A in the event of a change of residence.

THE LAW

42. Section 1 of the Children Act has been considered throughout. The child's welfare is paramount.

43. A change of residence is not a last resort and should not be treated as such, as the President of the Family Division said in *Re L (A Child)* [2019] EWHC 867 (Fam):

- *It is important to note that the welfare provisions in CA 1989, s1 are precisely the same provisions as those applying in public law children cases where a local authority may seek the court's authorisation to remove a child from parental care either to place them with another relative or in alternative care arrangements. Where, in private law proceedings, the choice, as here, is between care by one parent and care by another parent against whom there are no significant findings, one might anticipate that the threshold triggering a change of residence would, if anything, be lower than that justifying the permanent removal of a child from a family into foster care. Use of phrases such as "last resort" or "draconian" cannot and should not indicate a different or enhanced welfare test. What is required is for the judge to consider all the circumstances in the case that are relevant to the issue of welfare, consider those elements in the s1 (3) welfare check list which apply on the facts of the case and then, taking all those matters into account, determine which of the various options best meets the child's welfare needs."*

44. The High Court affirmed *Re L in Re H (Parental Alienation)* [2019] EWHC (Fam), a case in which the expert gave a clear opinion that the mother had alienated the father. The Court found at [31] that *'the only means by which H can have a full relationship with both of his parents would be to make a Child Arrangements Order that H live with his Father'*. The Court recognised the risk of such a move causing harm and Keehan J said at [33]: *'When I balance the potential adverse consequences of a transfer of residence for H against the short and long-term benefits of having a loving and beneficial relationship with both of his parents, I am satisfied that the balance falls decisively in H's welfare best interests in ordering that H should now live with his father'*. That case is similar to the circumstances here, in which a change of residence seems the only practical way forwards to safeguards the child's long term welfare interests. The evidence of the Guardian in this case is clear that if A continues to live with the mother she will continue to suffer emotional harm and that the mother is not capable of change in the short term.
45. The President makes clear in *Re L* that the threshold test for a change of residence should, if anything, be lower than the test applied for removal to foster care in public law proceedings. The separation test for an interim removal in public law proceedings is set out at [7] of *C (A Child: Interim Separation)* [2020] EWCA Civ 257:

(1) *An interim order is inevitably made at a stage when the evidence is incomplete. It should therefore only be made in order to regulate matters that cannot await the final hearing and it is not intended to place any party to the proceedings at an advantage or a disadvantage.*

(2) *The removal of a child from a parent is an interference with their right to respect for family life under Art. 8. Removal at an interim stage is a particularly sharp interference, which is compounded in the case of a baby when removal will affect the formation and development of the parent-child bond.*

(3) *Accordingly, in all cases an order for separation under an interim care order will only be justified where it is both necessary and proportionate. The lower ('reasonable grounds') threshold for an interim care order is not an invitation to make an order that does not satisfy these exacting criteria.*

(4) *A plan for immediate separation is therefore only to be sanctioned by the court where the child's physical safety or psychological or emotional welfare demands it and where the length and likely consequences of the separation are a proportionate response to the risks that would arise if it did not occur.*

(5) *The high standard of justification that must be shown by a local authority seeking an order for separation requires it to inform the court of all available resources that might remove the need for separation."*

46. For the purposes of his decision in this case, the judge summarised it this way

"The test is whether the child's safety is at risk and, if so, any removal should be proportionate to the actual risks faced and in the knowledge of alternative arrangements which would not require separation."

47. The true separation test is not applicable here as the question is not whether the child should be moved to a stranger's care and the local authority granted parental responsibility. The question is whether the child should be moved to the care of her father, with whom she is familiar and who has been identified as a capable parent by CAFCASS *and who has parental responsibility for him?* The only party with

concerns about the father is the mother and her concerns are not supported by the evidence which she attempts to rely upon.

48. The threshold in a case like this one is necessarily far lower than the separation test in public law proceedings, will the child continue to suffer significant harm if he/she remains in the care of their mother. The necessarily lower test of an interim change of residence in private proceedings must be met. The evidence is clear from the Guardian – this child has suffered and continues to suffer from emotional harm as a result of the mother’s actions. It is potentially the case that the test for the threshold is met for the making of a public law order, the local authority are already involved with child protection matters due to the mother’s actions and allegations and the Guardian has recommended that the local authority prepare a report under section 37 CA 1989. It is perhaps surprising that the local authority took no immediate further action following the mother’s hospital visit.

FURTHER ANALYSIS

49. Throughout this matter I have considered and addressed the Welfare Checklist in Section 1 CA 1989 as well as the paramountcy principle and I have borne them in mind when preparing this judgment. All of A’s physical and emotional needs can be met in the care of her father and she is not at risk of harm in his care. Change will occur but this will settle and there is no evidence that father will not be supportive of contact with the mother – indeed he readily proposed his sister as a supervisor. I consider that an order is necessary in this matter in order to protect A. Sadly at this time A’s mother poses a risk to her both emotionally and now physically and she is not able to fully meet A’s needs.
50. Parents should focus their energy on acting in the best interests of their child. Sadly in this case, the negative and harmful behaviour exhibited by the mother undermines A’s relationship with the father and indeed causes her harm such as the hospital visit. Further this behaviour can cause a child to be reluctant to spend time with the non-resident parent or at the very least to be fearful. Children, of course, pick up on their parents’ moods and behaviours even at a very young age.
51. The intractable hostility shown by the mother, along with her inability to distinguish the impact such behaviour has on A, will likely create parental alienation if allowed to continue.

52. I cannot accept that mother would promote contact at this time for the many reasons stated throughout this judgment, including the continued allegations and mother's own behaviour.
53. The mother submitted in her statement that she has looked after A successfully over the last 2 years and that "A is emotionally secure with me". I agree that mother has looked after A's physical and many of her emotional needs during this period. Indeed the CAFCASS officer recognised her ability to practically care for A and the local authority have observed only positive interactions between A and her mother. I have no doubt that there is a strong attachment between them. I recognise that a transfer of residence may cause short-term emotional harm to A, but in my judgment there is sufficient evidence for me to conclude that this is preferable to prevent further alienation from her father and potential emotional harm. Put simply, the mother is presently unable to meet A's emotional needs – she either refuses to properly do so or is unable to see that her behaviour is damaging. In addition to these issues regarding alienation which would cause emotional harm to A, there are very real concerns shared by the Guardian and the Local Authority of A becoming subject to further unnecessary medical testing in the future due to mother's anxieties
54. The mother has had ample opportunity to show that she can comply with court orders and show that she can move on and change. She has failed to do so, complying with orders with considerable reluctance or not at all and even very recently repeating her unfounded allegations against father. If she truly believes them then she is indeed putting A at risk of significant harm, there is no telling what she could do next. If she does not believe them and is merely using them as a method to try to alienate the father, the same applies. I am not satisfied that she will comply with court orders in the future, indeed she has told the police she will not do so. I am certainly not satisfied that she is able to promote contact and a positive image of the father for A's benefit. History is a useful indicator of future behaviour.
55. Her actions in attending the hospital accusing the father of doping A are shocking to say the least – and A was subjected to unnecessary physical examinations and a night in hospital. The outcome of that visit, of course, was to raise the concerns of the Local Authority about the mother and it is notable that A was kept in hospital

overnight not due to health concerns but due to the hospital's concerns about the mother's own mental health – ie to protect A from her mother.

56. I accept that A will suffer some emotional harm if moved from her mother's care to her father's but in my judgment the risks to her of remaining in the care of her mother outweigh this. She can maintain the bond with her mother during direct supervised contact and indirect contact and she is familiar with her father. There is no reason to believe that she would not settle in his care and she has suitable facilities at his home. The father has made arrangements to ensure continued care when he is working and to adapt his work rota. He has also diligently and at great expense pursued his application (twice now) despite the tactics of the mother and her attempts to discredit him.
57. During the initial proceedings it was the recommendation of the CAFCASS officer for A to move to her father's in a staged way, with contact to the mother, but of course matters settled with A remaining with her mother.
58. The Guardian supported an immediate move today.
59. The Guardian started in her position statement "*It was agreed that Mother would stop making false allegations. Sadly, since the proceedings ended, Mother has continued to make allegations against Father; she sought advice from the health visitor regarding A presenting sleepy after contact; she has taken A to A&E suggesting the father had given her sleeping pills; She has reported the concerns she raised during the previous proceedings of a sexual nature to police and she has sent A to contact with a tracking device. The mother maintains that she stands by her concerns raised during and since the last set of court proceedings. This is very concerning to the Guardian as the mother has clearly not been able to reflect on her own behaviour nor taken on board any advice or learning from the conclusion of previous proceedings and the previous recommendations from CAFCASS.*" She further states "*The mother has learned nothing from previous proceedings and professional involvement. It is difficult not to conclude that the mother has simply paid lip service to the court on the last occasion.*" I wholly accept and agree with this analysis and I share the Guardian's concerns for A's safety.
60. A decision to change residence from one parent to another is an extremely difficult balancing act. The factors involved are myriad and the eventual outcome usually

uncertain. I have balanced the potential harm to A in removing her from her mother's care against moving to her father's care. Placement with the father is preferable for the reasons stated in this judgment.

CONTACT

61. In Re H the Court directed that the child should not have any contact with the mother (the alienating parent) for three-months to protect the child's welfare during the change to reside with the father. I am satisfied that this is not necessary here but I am satisfied that there should be supervision of contact until further assessment of the mother by professionals. The father has proposed his sister as a supervisor and I invite the Guardian to make enquiries with her over the course of the next 2 weeks and to set out for the next hearing how supervised contact can proceed in the future. Twice weekly supervised contact as agreed for 2 hours can take place in the meantime, additional or more lengthy contact could impact upon A settling with her father.

INTERIM ORDER AND DECISION

62. Accordingly I make the following orders (a formal order and also a separate directions order is requested from the child's solicitor)

Change of Residence

1. The child A shall move to the father's care on 11 September 2024 and shall be collected from the mother's home by the father immediately following this hearing and by no later than 5pm.
2. The mother shall deliver up the child A to the father by 5pm on 11 September and shall not take any step which might frustrate the transfer of the child to the father's care
3. In the event that the mother fails to comply then I authorise a constable to take charge of A and deliver her to the father pursuant to this order. A separate order is attached in the event that this is necessary

The Police

4. See attached order pursuant to S34 FLA
5. A Police Disclosure Order is made to x Police; the child's solicitor is requested to prepare the same.

Child Arrangements Order

6. The following child arrangements shall apply. This child arrangements order supersedes and replaces all previous child arrangements orders and agreements relating to the child:
 - a. The child shall live with the applicant father until further order
 - b. Direct contact between the child and the respondent mother shall be as recommended by the Guardian and be supervised.

Prohibited Steps Order

7. The respondent mother must not remove the child from the care of the applicant father or any person or institution (including any nursery etc) to whom the applicant father has entrusted the child's care, nor instruct or encourage anybody else to do so.

Section 37 Direction

8. It appears to the court that it may be appropriate for a care or supervision order to be made with respect to the child because of the concerns about the mother's behaviour towards the father and the child, and the risks to the child both emotionally and physically as set out in the attached judgment.
 - a. The mother's local authority must undertake an investigation of the child's circumstances under section 37 of the Children Act 1989 and consider whether they should apply for a care or supervision order, provide services as assistance for the child or the family or take any other action in respect of the child. They must liaise with father's local

authority throughout and a copy of the bundle etc should be provided to them. Ideally the report should be a joint investigation, in separate parts if necessary, but agreed if possible and the mother's local authority shall hold responsibility for filing the same.

- b. The court must send this order to the legal adviser to both local authorities by [date] together with the following documents: The full electronic bundle from this present application LV24Pxxxx and also from the previous proceedings under matter number LV23Pxxxx (including the final order therefrom dated x 2024) and the judgment from x September of HHJ Hesford.
- c. If the local authorities decide not to apply for a care or supervision order then the local authority must by 4.00pm on x file at court a report setting out
- d. the reasons for so deciding;
- e. any services or assistance the authorities have provided, or intend to provide, for the child and the family;
- f. any other action the authorities have taken, or propose to take, with respect to the child; and
- g. when the authorities propose to review the case.
- h. Upon receipt of the report the court will consider whether it should be sent to the parties. It will, in any event, be considered at the next hearing.

Next Hearing

9. The matter is listed for a further hearing on x at 1pm via Teams ELH 1 hour where directions shall be given for the future progress of the matter. The parties should be available for pre hearing discussions by 12noon.
10. The Guardian shall file and serve a position statement regarding direct supervised contact recommendations and for psychological assessment of the mother (including the proposed identity of the expert and questions as well as the timeframes) by 4pm on x.

11. The mother and father shall file and serve position statements in response by 4pm on x. These should address the issues of contact in the interim period pending a final hearing and the proposed assessment of the mother by a psychologist recommended by the Guardian. (The mother is urged by the court to agree to the assessment)

Medical Records

12. The child's medical records (Hospital and GP) should be obtained and filed with the court.

HHJ Hesford 11.9.24