Case No: B4/2019/2223

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE CENTRAL FAMILY COURT
(HIS HONOUR JUDGE TOLSON, QC)

Neutral citation number: [2019] EWCA Civ 1692

The Royal Courts of Justice
Strand, London, WC2A 2LL

Thursday, 3 October 2019

Before:

LORD JUSTICE PETER JACKSON
LORD JUSTICE BAKER
and
LORD JUSTICE MALES

IN THE MATTER OF C AND D (CHILDREN)

Transcript of Epiq Europe Ltd, Lower Ground, 18-22 Furnival Street, London EC4A 1JS
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This judgment was delivered in public but it is ordered that in any published version of the judgment no person other than the advocates or the solicitors instructing them and other persons named in this version of the judgment shall be identified by name or location and that in particular the anonymity of the children and members of their family must be strictly preserved.

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Mr A Okai (instructed by QualitySolicitors A-Z Law) appeared on behalf of the Appellant mother
Mr D Bannocks and **Ms S Fincham** (instructed by the South London Legal Partnership) appeared on behalf of the local authority.
Mr I Griffin (instructed by Hanne & Co) appeared on behalf of the Children's Guardian
Ms T Pritchard (instructed by Alpha Springs) appeared on behalf of the father

Judgment
(Approved)

LORD JUSTICE BAKER:

1. This is an appeal against care orders made by HHJ Tolson QC at the Central Family Court on 27 August 2019 in respect of two boys aged nine and six, hereafter referred to as C and D.

2. As noted in Judge Tolson's judgment, there is much uncertainty about many aspects of the background of the boys' parents. They come from Somalia, but it is unclear (or so the judge found) when they came to this country. The parents were married under Islamic law in 2009, but there is apparently some dispute between them as to whether they are still married. They did not spend much time living together as the father moved abroad and has lived abroad for several years. The judge concluded that the boys had been conceived during the relatively short periods when the parents were living in the same country. The boys' mother works full time, and it seems that much of the care of the children was left to her aunt, who lives in the same block of flats in London as the mother. The mother has little if any English and speaks in a Somali regional dialect. She requires the assistance of an interpreter to communicate in meetings and court hearings. The children's father now lives in Sweden with his present wife and three children. He has had only limited indirect contact with these boys in recent years.

3. In November 2017, the local authority received a referral from the children's school. Both children had made allegations that they had been physically assaulted by their mother. When the local authority and police visited the school, however, the boys did not repeat the allegations, and the mother subsequently denied them in the course of a police interview. In the following weeks, C's behaviour deteriorated, and he became

violent and aggressive towards members of staff and other pupils at school and caused damage to the classroom. By the end of term, the school had concluded that they could no longer keep him or teachers and other pupils safe. In January 2018, C moved to a special needs provision unit for several months. In this environment his behaviour improved. During this time, he made a number of further allegations against his mother, which he later retracted.

4. In February 2018, both children were made subject to a local authority child protection plan following a case conference. The plan was confirmed at a review conference two months later. At these meetings and in the investigations by the local authority, the mother denied that she was experiencing any difficulties with C's behaviour and appeared dismissive of the local authority's concerns. In May 2018, the mother moved both children to another school. C's behaviour deteriorated again. In July 2018, the mother took the boys to Somalia for a holiday. At the start of the Autumn term, D returned to school without his brother. The mother told the social workers that she had left C in Somalia with his father and her mother, the boys' maternal grandmother. Later, however, she gave a different account, saying that she had left C in the care of the grandmother alone. Despite several requests, the mother failed to provide contact details or information about C's whereabouts to enable the local authority to check on his welfare. At that stage, of course, C remained subject to the local authority's child protection plan.

5. As a result of this lack of cooperation by the mother, the local authority applied to the Family Division of the High Court, where at a without notice hearing C was made a ward of court, the mother was ordered to disclose his whereabouts and a Tiptsaff order

was made requiring her to surrender D's passport and preventing her from removing D from the jurisdiction. At a later hearing, the court ordered C's immediate return to the jurisdiction. The local authority subsequently provided funds for his flight back, and ultimately, on 7 December 2018, C was returned to safely to this country. Thereafter C did not return to school, but was placed in a pupil referral unit where the staff described him later as "the most violent child we've ever had".

6. On 14 December 2018, the local authority filed an application for care orders in respect of both boys. The case was allocated to Judge Tolson. At a case management hearing, an interim supervision order was made with the children remaining at home in the care of their mother. Various assessments were directed and produced over the next few months. A cognitive assessment of the mother concluded that she was functioning in the borderline range of intellectual ability. Although she did not meet the criteria for a learning disability, it was concluded that she may have difficulties adapting to new situations or rapid change. A neuropsychological assessment of the mother concluded that she had suffered a cognitive impairment as a result of brain damage, possibly as a result of a birth injury, which affected her visual-spatial abilities but did not significantly impede her general functioning or her ability to regulate her mood and emotions.

7. A psychiatric assessment of the children conducted by Dr Juliet Butler concluded that C had learning difficulties, delayed speech and language and attachment difficulties, and that D has neurodevelopmental delay and attachment difficulties. Dr Butler suggested that the boys be placed in a specialist therapeutic school, hereafter referred to as "N School". A parenting assessment of the mother raised concerns about her ability to

meet the children's emotional and education needs. It did not recommend that the children be removed from her care but proposed a twelve-month supervision order with various types of assistance, including the support of a Somali-speaking service. Finally, a parenting assessment of the father and his wife in Sweden by an independent social worker concluded that they were able to provide good enough care for the children whilst noting that the boys had complex needs and at that stage did not have any established relationship with their family in Sweden. Following receipt of these reports, a professionals' meeting concluded that the children should remain at home with the mother under a supervision order or, alternatively, a care order. At the same time, it was agreed that a further assessment of the father should be obtained and, if it was positive, consideration be given to placing the children in his care. The guardian, however, continued to support the proposal that the boys be placed at N School.

8. In the circumstances, all parties agreed that the care proceedings were not ready for final determination and therefore sought an adjournment of the final hearing listed in August 2019. At the issues resolution hearing on 19 July 2019, however, Judge Tolson refused to adjourn the final hearing, although he extended the time estimate for the hearing to four days.

9. When the final hearing started, there were further reasons for thinking that the proceedings were not ready for final determination. The court had directed the local authority to file a threshold document on 12 July. In the event, it was not filed until the day before the hearing, over four weeks late. Concern was expressed by those representing the mother and the guardian that this did not allow the mother sufficient time to go through the document with her interpreter and lawyers. Prior to the start of

the final hearing, the local authority filed final care plans proposing that the boys be placed in a therapeutic foster placement under a care order while further assessments were carried out to establish whether they should be placed with their father. During the hearing, however, it emerged from the evidence that the proposed foster placement was not "therapeutic" and that the local authorities had not formulated a clear plan for the further assessment of the father. The local authority conceded that in those circumstances it would not be appropriate to make a final care order and instead asked the court for an interim care order.

10. At the hearing the judge heard oral evidence from Dr Butler, one of the assessors at the centre which had carried out the parenting assessment of the mother, the current social worker, the mother, the father and the guardian. It is clear from his judgment that he had considerable concerns about much of the evidence. He concluded that Dr Butler's proposal of a placement at N School was unrealistic, because it was the school's policy not to take children where there was significant family opposition and in this case the mother was unwilling to cooperate. He reached a similar view of the guardian's evidence and concluded that the support expressed by both Dr Butler and the guardian to giving the mother another opportunity to demonstrate cooperation was dictated by the exigency that their preferred placement at N School was not at present available. The judge was critical of the conclusion reached by those conducting the parenting assessment of the mother, observing that he had rarely read an assessment in which so much faith was placed on a parent on so little sound evidence. He found it striking that the local authority had rejected that assessment and now proposed removing the children into foster care in order to, in his words, "get a handle" on the boys' condition

and the reasons for it and try to effect change whilst giving the father a chance of demonstrating that he could care for them.

11. Central to the judge's decision was his assessment of the mother's evidence. He found her to be unreliable and untruthful, saying at one point that much of her evidence had been nonsense. She had failed to cooperate with the assessment and professional input. He recorded that he made allowances for the stress that she was under, her cognitive difficulties, the problems she faced dealing with proceedings in a foreign language and the fact that she comes from a different culture. On this point he rejected the view reached by the parenting assessor, saying at paragraph 33:

> "During her oral evidence the assessor laid particular emphasis on what he said were cultural aspects of the case. Somalis have no experience of or equivalent to a child protection agency in their culture. A failure to cooperate with such an authority was to be expected. The proposal was to involve a Somali agency as a kind of broker in future. I am afraid I do not accept this analysis. I cannot accept a cultural explanation for hostility to social work intervention, and such an overt failure to cooperate. Moreover, as counsel pointed out, he experienced no such approach by the father. Moreover, securing the mother's engagement in an assessment process and future cooperation is not the point. The question is: why are the boys behaving so badly? It is not because the mother does not cooperate with professionals."

12. The judge rejected the mother's case that the children were badly behaved at school but not at home. He concluded at paragraph 29 of his judgment:

> "I found this to be a dismal picture. I can acknowledge, as Dr Butler does, that their home is clean and well-kept and that there is warm and nurturing interaction with their mother 'when she is able' (Dr Butler's words), but I find that in reality for significant periods she is unable to be warm and nurturing to the boys."

13. So far as the father is concerned, the judge described him as child-centred, straightforward and honest, but he was left with concerns about his commitment to the children, his lack of concern about the children's plight and his willingness to support the mother. The judge noted that the father had no criticism of the mother or her care of the children but merely noted that she "needed support".

14. At the conclusion of the evidence, the parties' respective positions were as follows. The local authority was seeking an interim care order with the children to be removed and placed in foster care pending a further assessment of the father. The mother sought an outcome which would allow the children to remain with her, if necessary under a supervision order. The father supported the mother but, if the court concluded that the children could not remain in her care, he proposed that they be placed in his care immediately. The guardian sought an adjournment of the final hearing for further assessments of the father and the mother, with the children remaining at home under an interim supervision order or, if the children were removed, under an interim care order.

The guardian proposed that, in addition to a further assessment of the father, there should be an exploration of the options for further support which would allow the children to stay with the mother, including allowing her an opportunity to visit N House and other local services, including the Somali support agency. It was the guardian's view that all options for providing support to the mother should be explored before the children were removed.

15. The judge found that the threshold criteria under section 31 of the Children Act were satisfied, holding that the mother's care had caused the children significant physical, emotional and educational harm. He then considered the factors in the welfare checklist. When considering the question of harm in that context, he made this observation at paragraph 48:

> "The boys are at significant risk of continuing harm in their mother's care. Other placements will eliminate the risk of harm save that it is impossible to know how the boys will react to leaving their mother's care. If they do leave then it is difficult to say which placement offers the better chance of eliminating harm. All of them create no separate risk of harm; it is simply a question of managing the boys' existing behaviour, impacted as it may be by the loss of their home and their mother."

16. The judge reached the conclusion that the current situation was "too bad and too urgent for the boys to remain in their mother's care". He found that the mother had had every opportunity to cooperate, accept support and effect change. He concluded that there was no evidential foundation for thinking that she had the capacity to change. In

reaching his conclusions, he considered her background but found that the cultural differences could not explain the history of the case. He rejected the option of a placement at N School. No place was available for several months and would not be offered without the cooperation of the mother, which he found unlikely to be provided. He did not consider that the guardian's proposal for the boys to remain with their mother under an interim supervision order until a place at N House was available was feasible, given the extent of the boys' behavioural problems, and he was unable to adopt the guardian's alternative option of keeping the boys at home with their mother under an interim care order because the local authority had indicated that, if any care order was made, their plan was to remove the children, and the judge was unable to compel them to do otherwise. He found that a move to the father's immediate care was not possible, observing:

> "The prospect of removing two such currently troubled children to a country whose language they do not speak and to a father they barely know has little to recommend it and risks the disaster of a swift placement breakdown."

As already stated, the judge was concerned about the father's commitment to the boys.

17. For these reasons he concluded that the only option at that stage was to place the boys in foster care. He accepted that foster care might not be the right option in the long term. He acknowledged the view of Dr Butler and the guardian that a foster placement would not be enough but decided that it was not clear at present and that fostering should be tried first. The boys needed to be removed to a safe, stable environment to see how they coped in the hope that "the reasons for the difficulties may well become

clearer and so too therefore the solutions". A move to foster care would also allow the local authority to look in more detail at the option of placing the children with the father. It would allow the boys to settle whilst also enabling them to have extended contact with the father in London and, if all went well, in Sweden. At the same time a supplemental assessment of the father's capacity to care for the boys could be undertaken which would, amongst other things, look at his commitment to their care. The judge recognised that the ultimate conclusion could be that the children could not be placed in his care. In those circumstances they would either remain in foster care or be placed in residential accommodation.

18. The judge then considered whether to make a final care order or postpone a final decision, with the boys being placed under an interim care order. He said:

> "I have considered whether the overall aim of the care plan could be achieved under an interim care order and indeed whether I could reasonably prolong these already delayed proceedings to further the aim of placement with the father. I do not believe that I am able to do this. It is not a question of the care plan being inchoate. The local authority is committed to placing with the father if possible. Nor is it a question of adjourning the proceedings for a short while. I do not foresee that it would be right to place the children with the father for many months at best. Nor is it a question of adjourning to some fixed time in the future when the position will become clear. I cannot say that there is simply some necessary piece of work to be carried out which will clear matters up. For me the case is now about the long-term management of the care order, which in my judgment is necessary to protect the children's welfare

interests. In reality the local authority only agreed to accept an interim care order for forensic reasons in order to align itself with the position of the guardian, who was maintaining throughout that there should be an adjournment. I can respect that view, but I do not believe that it is best for the children. Ultimately Part 4 of the Children Act 1989 proceeds on the basis that the court decides if a care order is necessary and then leaves the local authority to manage it. I believe that we have reached that position in this case."

19. On 27 August, the judge arranged for his draft judgment to be emailed to the parties, and on the same date made final care orders in respect of both boys. The following day, the judge sent a further email saying that the children should not be removed from the mother's care before 5 September. The mother's solicitors asked the judge for permission to appeal and a stay of the order pending appeal. On 5 September, the judge granted a stay until 10 September. The judge did not at that stage deal with the application for permission to appeal, and at that point the mother's legal representatives filed a notice of appeal to this court. On 6 September, I listed the application for permission to appeal for an oral hearing on 11 September and extended the stay to that date.

20. In submissions filed in response to my directions, the parties indicated their position on the question of a stay. The guardian also indicated that she too was intending to seek permission to appeal and included informal grounds of appeal in her submissions. Foremost amongst those grounds was an assertion that the judge had been wrong to finalise the case at that stage. At the hearing on 11 September, the local authority

indicated that it would not oppose that part of the guardian's appeal against the making of a final order. I granted the mother and the guardian permission to appeal, gave directions for an urgent hearing of the appeal and extended the stay until the conclusion of the appeal.

21. At the hearing of the appeal before us today, we have had the benefit of extensive grounds of appeal filed by the mother and the guardian, with skeleton arguments settled by counsel for the mother, local authority and guardian. The father through counsel broadly supports the position of the guardian. At the outset of the hearing, the local authority confirmed that it did not oppose the appeal against the making of a final order. The parties indicated that, provided this court agreed with their unanimous position that the final order should be set aside, the principal remaining issue was the type of interim order which should be made pending the final hearing of the application for a care order.

22. For my part, I consider the local authority's concession to be well-judged and responsible. Judge Tolson was faced with an exceedingly difficult welfare decision. He took the view that the boys' needs were such that it was necessary to make a final order removing them from the mother's care. I understand his reasons for coming to that view, but, exercising all due caution when asked to review the decision of an experienced and senior family judge, I have reached the clear view that it was premature of the judge to make a final order at that stage. Faced with the united position of the parties at the issues resolution hearing in July that the case was simply not ready for final determination, the judge should in my respectful view have accepted their proposal for an adjournment. Having then decided to proceed to hear the

evidence, it ought to have become clear by the conclusion of the evidence that the arguments of an adjournment were at least as strong if not stronger than they had been at the IRH.

23. It is of course right that a court must be careful not to intrude into the areas of responsibility which Parliament has vested in local authorities, but it is equally true that the court should not make final orders in proceedings where the ultimate outcome as to the children's long-term placement is unknown and where there remain a number of outstanding issues to be resolved, issues which should properly be determined by a court. At this point, as the judge acknowledged, it is impossible to know how these boys will react to leaving the mother's care. As the judge also acknowledged, if they do leave her care it is difficult to say at this stage which placement would offer the best prospects of minimising harm. The process of assessing risk in cases of this complexity is an issue for which the courts are best equipped. In addition, where this sort of issue remains outstanding, it is to my mind an invaluable advantage for the children, particularly children of this age, to have a voice in the decision-making process through representation by a children's guardian. These points were, I think, acknowledged by the local authority at the hearing before Judge Tolson, hence the concession made agreeing to an interim care order. The judge was, with respect, wrong in my judgment to say that this concession had been made merely for "forensic reasons". Accordingly, I endorse the position of the parties and would allow the appeal against the making of the final care orders.

24. In those circumstances, it is unnecessary for this court to address the other criticisms of the judgment made by the appellants. Both the mother and the children's guardian in

different ways challenge various aspects of the judge's case management and decision-making which had the effect of eliminating the option of the children remaining in the mother's care. It is, however, fair to say that there was before the judge cogent evidence that the mother's parenting of the children had been deficient and had contributed to their extremely challenging behaviour, and that she had failed to take advantage of the many offers of help she had received. But all parties are agreed that, if the proceedings continue, it would be quite wrong at this stage to exclude the mother completely from any prospect of retaining care of the children in the long term. The parties are agreed that there are four realistic options for the long-term care of the children: (1) remaining with the mother; (2) remaining with the mother but in combination in some way with a placement at N School or another similar facility; (3) placement with father; or (4) long term foster care. None of these options can be excluded at this stage.

25. The fact that I would allow the appeal against the making of the final care orders should not be seen as an endorsement of the criticism of the judge's evaluation of that evidence. All I am saying is that the final orders should not have been made at that stage. The four realistic options identified above remain open to be assessed at the final hearing. For those reasons, I propose to say nothing further about the other grounds of appeal put forward by the mother and guardian.

26. The remaining issue, therefore, is the order which should now be made for the interim placement of the children until the final hearing. The local authority proposes that the children should be removed from their mother's care and placed in interim foster care under an interim care order. The original foster placement is no longer available, but we were told this morning by Mr Bannocks on behalf of the local authority that another

placement is available with an experienced foster couple. It is not what has been called a "therapeutic" foster placement, but the local authority has arranged for the provision of therapeutic support from the intensive intervention team of the local NHS mental health trust. The other parties all oppose the local authority's proposal and invite the court to make an order which allows the children to remain at home with the mother in the interim. The guardian, supported by the father, advocates an interim supervision order. The mother would prefer a twelve-month supervision order with the provision of various support services but, in the alternative, her counsel indicated that she would fall in line with the guardian's proposal. The local authority indicated that under an interim supervision order it would arrange for social work visits to the mother and children once a week and also continue to support the mother in accessing the local Somali support service, which she has apparently begun using very regularly in the past few weeks since Judge Tolson's order. The guardian also proposes that the mother should be encouraged to engage with N School to see if that resource could still be made available to the children. At the same time, further assessments will be carried out on the father, as originally proposed.

27. At the conclusion of the hearing, we invited Mr Bannocks to take instructions from the senior social work managers in the local authority to establish whether the authority would agree to amend its care plan to allow the children to stay at home under an interim care order. The response was that the local authority did not feel able to accept parental responsibility on that basis. Accordingly, it falls to us to determine whether there should now be an interim care order or interim supervision order.

28. The test for making an interim care order in the currency of the proceedings is, first, whether the threshold criteria under section 38 for interim orders are satisfied. Plainly those criteria are satisfied in this case. Secondly, applying section 1 of the Children Act, what order should the court make? It is established that in these circumstances the guiding principle, as set out the decision of this court in *Re L-A (Children) (Care Proceedings*: *Interim Care Order)* [2009] EWCA Civ 822, is whether the children's safety and welfare require their immediate removal. That is a decision which must be made on the basis of a careful appraisal of the up-to-date evidence. For my part, I am not persuaded that the evidence before us today would justify taking that course. We have no evidence and little information as to what has happened in the last six weeks since the hearing before Judge Tolson. We have been told, importantly, that the mother has started to engage with the Somali-speaking support service. That is encouraging, although in my judgment there is a great deal more that she needs to address before the court could be confident that the children should remain in her care in the long term. Given Judge Tolson's conclusion that it would be difficult to predict how the children will react to being removed, together with the worrying history of the children's behaviour and the lack of an up-to-date care plan setting out how the needs of these boys will be met if removed at this stage, plus the firm opposition of the guardian, who knows this family well, I am unpersuaded that the local authority has satisfied the test for removing the children today.

29. Accordingly, if my Lords agree, I would make an interim supervision order at this stage. It will of course always be open to the local authority to pursue an application for an interim care order at any point hereafter in the proceedings. Nothing I am saying should be read as indicating any firm view on the merits of such an application at any

point in the future. All I am saying is that I am not persuaded that such an interim care order is justified today on the limited up-to-date information available today.

30. There remains finally the question of what should now happen to the proceedings. There are a number of complex issues in the case. In the circumstances I would, if my Lords agree, propose to refer the proceedings to be considered by Theis J as soon as possible to determine the appropriate allocation. She may consider it justified to retain the case herself, or list it before another judge of the Family Division, or a deputy judge, or alternatively before an experienced circuit judge. As FDLJ for the London area with detailed knowledge of the resources available, she is best equipped to make that decision. For that hearing the local authority will need to provide firm details of the support to be provided to the mother in the interim. For my part, I think there is much to be said for the services to be provided to the mother to be included in a written agreement, which will also set out the expectations of the mother in the interim period. Particulars also need to be finalised as a matter of urgency about the future assessments of both the mother and the father.

31. Therefore, to the limited extent set out above, I would allow the appeal.

LORD JUSTICE MALES:

32. I agree. I add only two points. The first is that, for my part, I think it a matter for regret that the local authority was not prepared to at least consider further the course of accepting an interim care order on the basis that the children continue to reside with the mother. Without reaching any final decision as to what order would have been made if

the local authority had been prepared to accept that, I consider that that would have been a course worth serious consideration.

33. Second, I record my agreement with the judge that it is clear that the mother's parenting until now has been seriously inadequate. As matter stand and in the absence of a change, it appears that her children face a bleak future. In those circumstances a failure to cooperate with the services made available to her is a matter for grave concern. It is however, as my Lord has said, encouraging to hear that, since the date of the judge's order, she has begun to engage with the support provided by the Somali-based support service, at least to the extent of attending sessions run by that service. It is important that the mother understands that all options for her children's future remain on the table, and that includes that the court may decide that it is necessary to take them into local authority care and to remove them from her. In those circumstances it is essential that she engages and cooperates with the local authority and the other sources of support available to her. That will give her the best prospect of keeping her children, but that decision will be for the future.

LORD JUSTICE PETER JACKSON:

34. I agree with both judgments. I only add a few words because we are differing from the carefully considered decision of this experienced judge. We are not allowing this appeal because the parties agree that we should. We are not allowing the appeal because we in any way disagree with the judge's intense and justified concern about the emotional welfare of these two boys. For my part I consider that he was entirely justified about that. He was justified to see and express his concern about the seriousness of the problem. Where I would depart from his approach concerns the

process and not the problem. The appeal is being allowed because there were too many unanswered questions about how these very needy boys' needs can be met. This will be a momentous decision about their futures. The result of the appeal is that all the realistic options can now be fully and effectively considered. As to the interim placement of the children, I agree with my Lord, Baker LJ that this court simply does not have the material that might justify the boys' immediate removal.

35. Finally I agree with Males LJ that in these circumstances it would have been preferable for these boys to remain at home under an interim care order so that the local authority could share parental responsibility for them. That would be preferable to the interim supervision order that we will make as showing the high level of need that exists. The local authority has for its own reasons not allowed this possibility. I am not sure how that advances the children's welfare, but there it is. This is an interim order, and it is not necessary to say more about it now.

36. For those reasons, then, and for the reasons given by my Lords, I agree that the appeal should be allowed and that these proceedings should now continue. The order that we will make is as follows:

(1) The appeal is allowed;

(2) Paragraph 1 of the order of 29 August 2019, which contained final care orders, is set aside;

(3) There will be interim supervision orders. The two children are placed under the supervision of the London Borough of Wandsworth until the conclusion of these proceedings.

(4) The urgent directions hearing which will take place on a date and before a judge which will be nominated by Theis J as the Family Division Liaison Judge.

37. That will be the order. In practice the parties will hear from the court with the first necessary piece of information, which will be the date for an urgent directions hearing that will have a time estimate of one hour, and the parties should now please draw up a list of the issues that will need to be dealt with at that hearing so that the judge who will be conducting it will have a clear agenda of the matters, hopefully matters that will now be agreed but, if not, matters that require decision. So the order that will arise from today will require the local authority to present a draft order at that hearing which indicates matters which have been subject to agreement or disagreement.

Order: Appeal allowed

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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