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15/095107

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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FAMILY DIVISION

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IN THE MATTER OF ORLA AND MARTIN
(Shared Parenting: Breakdown)

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O'HARA J

The names of the parties in this case have been anonymised in order to protect the interests of the children to whom the case relates. Nothing must be published or reported which directly or indirectly leads to the identity of the children being revealed.

Introduction

[1] This case involves two children who are now 15 years and 12 years old. Their parents separated in 2010 and subsequently divorced. It would be a gross under-statement to say that the separation and divorce were acrimonious. These two adults truly despise each other. Neither of them has shielded the children from their mutual animosity or even tried to do so. Inevitably, that has caused damage to the children.

[2] After prolonged efforts to achieve some form of shared parenting, the children started to alternate week about between the parents in October 2014. That arrangement was formalised in a joint residence order on 16 January 2015. The shared parenting plan, running to 18 pages, reflected the levels of distrust and dispute over the previous years. In the case of the older child, a girl who I shall call Orla, that order only worked until May 2015 since when she has refused to stay with her father. She has seen him on a few occasions since then but in recent times she has refused to see him at all.

[3] The younger child, a boy who I shall call Martin, continued to go to and stay with his father until February 2016 for one week every fortnight. After that he

stopped going also. Like his sister, he has seen his father a few times since then but now also refuses to see him. In my judgment it is striking that Martin continued to alternate between his parents for 9 months after his sister stopped doing so. I believe that he would have received no encouragement whatever to do so from his mother despite the joint residence order.

[4] In the protracted hearing which has followed the breakdown of the operation of the shared parenting plan a range of positions has been advanced. Those issues can be broadly summarised as follows though there has been more than one change of mind as to the best way forward:

(i) The father wants the shared parenting plan reactivated with both children staying with him on alternate weeks. In order to secure that he wants a penal notice attached to the joint residence order so that the mother would face jail if the children did not go to him. As an alternative he proposes that since the mother will not adhere to the January 2015 order, the children should be removed from her and placed with him. He envisages that she might resume contact at some point but only after the children have adjusted to staying with him.

(ii) The mother contends that there should now be a residence order in her favour for both children with an order for indirect contact only in favour of the father.

(iii) The Trust which had applied for a care order contends that whilst threshold criteria are established I should grant its request for leave to withdraw the care order application. It suggests that a shared parenting plan should continue and that there should be contact for the father with his children though quite how that might be achieved is rather unclear.

(iv) The Guardian ad Litem who originally supported the making of a care order changed her position as the case developed. Her ultimate position was that there should be no care order, that the joint residence order should be revoked, that a residence order should be made in favour of the mother and that there should only be indirect contact with the father.

[5] In these proceedings which relate to both the public law application for a care order and the private law joint residence order the father has chosen to represent himself. This is despite the fact that he would have been entitled to free legal representation in the public law case which in my judgment is inextricably linked to the private law case. The mother was represented by Ms McGrenera QC with Ms Rice. The Trust's counsel was Ms Sholdis and the Guardian was represented by Mr McQuigan QC with Ms Casey.

Background

[6] As I have already indicated the parents separated in 2010. This followed a dreadful incident of domestic violence perpetrated by the father on the mother, including a serious assault on her and threats to kill her and her older son by a previous relationship. Terrible as the events of that night in December 2010 were, and badly as they reflect on the father, the fact is that they did not lead to the permanent breakdown of his relationship with his children. Instead, and thanks to dedicated and protracted social work input from Ms Ann Millar in particular, the contact with the children was restored on a regular basis though only after Ms Millar had supervised 40 hours of contact.

[7] It is worth emphasising at this early stage the extraordinary demands which these adults have made on social workers and others. In many, if not most, cases of this sort there is an underlying problem – addiction, disability, poverty, mental health issues or damaged childhoods to name just a few. None of that is evident here. Instead this case involves parents who are educated and who are capable of holding down steady employment. The central problem, on both sides, is the way in which they have prioritised their hostility to each other over their children's interests. They repeatedly call out social workers, police officers and others who have many more important things to do than pander to their excessive unreasonable demands.

[8] During the course of the hearing before me I emphasised that I would restrict the evidence of events prior to January 2015 when the joint residence order was made because the focus should be on what has gone wrong since then. It was therefore unhelpful for the mother to pay so much attention to the December 2010 incident of domestic violence. The mother seems determined to keep that matter prominent in everyone's mind. Indeed, she has lodged a criminal injury compensation claim on behalf of Orla in respect of that incident. If Orla saw it at all, which is far from clear, it was at a distance. However, by causing her to be examined about it by Dr Leddy, the prominent child psychiatrist, she has prolonged the effect of that episode in the life of the family when the financial value of any claim is most unlikely to be significant.

[9] There have been too many separate events and confrontations for me to recite them all in this judgment. As an illustration of the dreadful conduct of the parents I will however set out in some detail the oil tank incident of 15 August 2016. The parents owned a property which was let out to a tenant. That tenant left in disputed circumstances which do not need to be examined. The father arrived at the house with a friend, Ms C. He found the mother already there. Also there was an oil delivery driver who was draining the oil left by the tenant from the oil tank at the behest of the mother. (The mother later pleaded guilty to theft of the oil, an act which suggests how mean and dishonest she can be.) On his arrival the father confronted the mother and the hapless and innocent driver about what was going

on. At some stage during this episode Ms C started to record events by activating her camera. (I am sceptical as to whether this was accidental, but no matter.)

[10] What emerged from the recording was as miserable an exchange as is possible to imagine.

(i) Ms C taunted and baited the mother in extremely abusive terms about her weight and appearance.

(ii) Ms C revelled in this confrontation with the mother.

(iii) The father made no effort to defuse the verbal attack by Ms C nor in his evidence was he prepared to condemn it.

(iv) There was at worst minor physical contact between the mother and the father.

(v) There was at worst minor physical contact by the mother on Ms C.

(vi) The father apologised to the oil tanker driver for having been caught up in all of this but then told him about the issues between the parents and also boasted to him about the very senior local politicians he has worked with as a civil servant.

(vii) Towards the end of the recording a discussion was caught between the father and Ms C. This was to the effect that she would ring the police to report that she had been assaulted by the mother. Ms C and the father were then caught in the act of him grabbing her with both hands to cause bruising which would be blamed on the mother.

[11] What is remarkable about this episode is that the father was most anxious that I should receive the recording in evidence because in his eyes it reflected badly on the mother. The idea that it showed him in a dreadful light seems to have escaped him. It is however important to record that the mother then gave a false and exaggerated account of the event to the District Judge's Court in an attempt to obtain an ex parte non-molestation order against the father.

[12] The conclusion to be drawn from this episode is that each parent is happy to lie about the other, each parent is willing to mislead a court and neither parent can move beyond the overwhelming animosity which consumes them.

Expert Evidence

[13] Evidence was given by Dr Berelowitz, a child and adolescent psychiatrist. He began his assessment of the situation with the following general comments:

(a) Children do better psychologically following divorce if they have rich and full relationships with both parents.

(b) Children do worse in marriage and in divorce if they are exposed to discord between parents.

(c) The greater the discord the more difficult it is for children to be in a relationship with both parents at the same time.

(d) Discord can be viewed a bit like toxic radiation. That is to say, it can have significant effects without one necessarily being aware at the time of what is causing significant consequences.

[14] Dr Berelowitz continued as follows:

> "These children have clearly been exposed to and continue to be exposed to a high degree of toxic discord."

In the doctor's opinion Orla managed the situation by becoming estranged and even alienated from her father. Unfortunately, the price for this temporary solution is that she has lost her relationship with her father, she has created an over simplified view of family life (in which mummy is good and daddy is bad) and she created an additional vulnerability in Martin's relationship with her father. This led Martin eventually to follow her lead with similar consequences for him.

[15] Dr Berelowitz's gloomy analysis continued with him advising that if the current level of conflict persists a good outcome is not possible because the children will not be able to enjoy rich and full relationships with both parents simultaneously. Significantly, he added that the relationship they will have with their mother will be "skewed, unbalanced, un-insightful and fragile". This expert opinion should of course serve as a warning to the mother that the status quo is terribly damaging, both now and for the future, to her daughter and son.

[16] Dr Berelowitz's ultimate advice was that if I concluded that one parent is markedly worse than the other then the risks of the children being with that parent are higher. In that case the risk should be partially reduced by placing the children with the other parent.

[17] He added that whilst re-instating the shared care arrangement has the appeal of simply cutting through the multiple allegations and counter-allegations, that arrangement would probably just break down again.

[18] Ultimately, Dr Berelowitz described the situation as "grim". He prophetically saw little point in mediation, so entrenched were the parents. Instead, he suggested that I try to identify which parent has the most to offer and is least destructive and for the children to be placed there. Of course that idea has less merit in every way if

the differences between the parents are marginal. I should add that Dr Berelowitz specifically noted in February 2017 when he provided his first report that the prospect of moving Orla, who was then 13½, was fraught with difficulty and that separating the children was problematic. In light of all of the above it came as no surprise when he said in his oral evidence that "there is no obvious correct solution in this case".

[19] A valuable written report was provided by Ms Helena Stuart, a psychotherapist, in June 2016. She completed 6 sessions of therapy with Martin, having met the parents separately in advance. Ms Stuart said that they were caught "in a vicious cycle of accusation and counter accusation" and they feel incapable of resolving the situation. The result of that, she said, is that Martin (and his sister) are caught in an abusive situation where they are forced to divide their loyalties. "Martin is not permitted to love both his parents" she added. The conclusion which Ms Stuart then reached at that point was that it would be counter-productive to continue with therapy with Martin for two reasons. The first is that it would re-enforce Martin's perspective that somehow it is for him to resolve the situation – which it clearly is not. The second is that it shifts the emphasis away from those who are solely culpable – the parents. Ms Stuart added that therapy is most useful to help children recover from the impact of abuse but is of little value where, as here, the parents allow the abuse to continue.

[20] Expert evidence was given by Ms Millar, the senior social worker, already referred to in the context of the work done to establish shared care and Ms Tracey Gillen whose involvement as the social worker responsible for this case began in July 2015. In effect she took the case over from Ms Millar but has had her continuing support.

[21] I do not intend to set out Ms Gillen's evidence at length. What I have to record however are two initial issues of importance:

(i) The first is that I have not seen any social worker driven to despair in the way Ms Gillen has been in this case by two adults who should know and do know better. I believe she has done everything in her power to protect and improve the lives of these damaged children but has been thwarted by dishonesty, intransigence and hostility which has been entirely unwarranted.

(ii) The second is that I accept her analysis as given in oral evidence on 5 May 2017. It was as follows:

- I see relentless allegations and correspondence by the parents against each other.
- The school knows about it.
- The GP knows about it.
- The receptionist at the ENT Clinic knows about it.
- The oil tanker driver knows about it.

- Their friends know about it.
- All the dirty washing gets out everywhere.
- The parents in this case are shocking.
- They have brought us to where we are today and only them.
- There will be more upheaval and harm in the future whatever the result is.
- The parents want to hang their heads in shame.

[22] Ms Gillen was particularly distressed about Martin. She said that on two occasions in February 2016 and then just as the hearing started in May 2017 she had gone to see him about contact with his father. His response was to go limp and into a trance like state because he just could not cope with or face this dilemma, the one identified by Dr Berelowitz and Ms Stuart.

[23] Another specific event she referred to was a meeting with an ENT consultant in November 2016. It is an indication of the ridiculous state of affairs in this case that when Orla was to see a consultant about treatment Ms Gillen's presence was required. Even worse, the consultant's secretary arranged separate waiting areas for the parents. As it happened this meeting went tolerably well, surprisingly well in fact. It is detailed in Ms Gillen's report of 29 November 2016 which also analyses point by point the versions of that meeting subsequently advanced by the parents. This is one of the relatively few examples of face to face meetings at which there was a neutral presence. It is striking that the account of the mother differs from Ms Gillen's significantly and, in my judgment, not credibly. The mother accused the father of inappropriate behaviour which is said to have provoked an angry reaction from Orla when she was alone with her mother afterwards. I do not believe the mother's account.

[24] Before I turn to the evidence of the parents themselves it is relevant to record what Ms Gillen said when cross-examined on behalf of the mother about the father. Part of the context for this is that the father has repeatedly, unwisely and unhelpfully written long emails, many with multiple attachments, which are confrontational, critical and aggressive. While one view might be that they show him in his true light, an alternative interpretation was suggested by Ms Gillen. Her view was that he is more controlling on paper than he is face to face, with her at least, and that on paper "it is about process and practice and is calculated and deliberate". She said that she tries never to respond to him by email. Instead she tries to see him face to face. When she does so he "winds down" as she put it and accepts more readily that the real issue is the good of the children, not the war with his ex-wife.

The Parents

[25] Before analysing their evidence it is unfortunately necessary to set out briefly the manner in which it was presented so as to dispel a falsehood advanced by the father in his closing written submissions and in subsequent correspondence with the Attorney General. The mother gave her direct evidence through her counsel. On the first day (29 June 2017) her evidence lasted for less than an hour while on the second

day it lasted for approximately 3 hours. Her examination-in-chief then finished on 3 July in approximately one hour. The arrangement which was then made was that I would resume the hearing on 18 July.

[26] By 18 July I had received information that the parents were on the verge of starting 6 sessions of conflict resolution. I therefore asked whether I should continue to hear evidence from the mother in cross-examination and then hear the evidence of the father and the Guardian. The father's response was that he had considered waiving his right to cross-examine the mother at all so as to "avoid raising the stakes even higher". That makes little sense to me on any level and illustrates the disadvantage of him representing himself. In any event all the parties agreed that pending the efforts at conflict resolution the hearing should be adjourned.

[27] Sadly the sessions which followed were unsuccessful. While this was not necessarily unexpected the fact is that in this complex and difficult case there was an obligation to try to find a way through the impasse for the benefit of the children. In the circumstances I arranged to review the case again on 13 September 2017 but was only able to do so substantively, due to the pressure of court business, on 20 October 2017. The father did not attend on that date. I am satisfied that he had no good reason not to attend. On that date I considered a written statement which he had submitted in mid-October about the way forward and I heard submissions from the Trust which was still pursuing its request to withdraw its application for a care order but on the basis that I was considering a transfer of residence from the mother to the father. For the mother it was suggested that I should discharge the joint residence order and perhaps make no order at all on residence, effectively leaving the children with their mother. The Guardian who had initially supported a care order conditional on the children staying with their mother now supported no public law order unless I envisage a change of residence.

[28] The father's absence on 20 October was entirely unhelpful, both to me and to his own case. As everybody knew the evidence was incomplete. The mother had not been cross-examined and the father and Guardian had not started their evidence. In the circumstances I had to consider the proper way forward. I reviewed the case again on 9 April 2018. This delay was regrettable but was entirely due to the pressure of other court business. While this case is obviously important it is not more important than the cases of other children.

[29] Having heard from the father and from counsel on 9 April I ruled on 1 May that the only way to reach a decision was to finish the evidence. Accordingly, I re-arranged other hearings and set out the following timetable:

- 29 May – cross-examination of the mother

- 30/31 May – evidence of the father

- 1 June – evidence of the Guardian

No party objected to that timetable. Specifically, the father took no issue with it.

[30] On 25 May all parties were reminded to the timetable. The email which was sent included the following:

> "It is for the parties to liaise on that suggested timetable and advise on Tuesday morning [29 May] if there is any reason why it cannot be achieved. The completion of the hearing within this timeframe requires the parties to avoid speeches, ask concise questions and focus on the primary issues which they want to raise, setting aside all secondary matters."

[31] On 29 May the parties confirmed that they accepted this way forward. The father cross-examined the mother all morning and for a further hour after lunch. She was then questioned for another hour by the other parties. On 30 May the father gave his direct evidence. As often happens with litigants in person he was unable to question himself or lead his own evidence as he would have done had he accepted legal representation. That was his choice. His evidence-in-chief was over by midday and only lasted that long because I drew out some issues with him. His cross-examination by the mother's counsel finished at 11:30am the next day. That was followed by cross-examination by the Trust for another hour but no cross-examination for the Guardian. In all his evidence took a day and a half rather than 2 days. The fact that it ran short or shorter than was allowed is due entirely to his own decision about representation and the brevity of his direct evidence.

[32] Just to complete the picture, the Guardian's evidence was given in full on that afternoon, the third of the 4 days set aside for the hearing. Despite the fact that her position was now against him the father cross-examined her for a mere 20 minutes.

[33] It has been necessary to set out this sequence because in paragraph 3 of his written submission the father has stated:

> "I also highlight in support of the submission that the mother's QC was afforded almost 3 times the amount of court time in cross-examination than I was on matters."

Then in an email dated 23 July he asserted the following to the Attorney General:

> "I presented my evidence-in-chief and was only afforded half a day to cross-examine the other party, yet the other party's QC was afforded 4 times that amount of time to cross-examine me. I did raise this matter to no avail. There is an issue with the quality of arms."

[34] The only part of the case on which I imposed time restrictions on the parties was the final part. The father's assertion about the time he was allowed is false. The assertion about the length of his cross-examination by Ms McGrenera is false. His assertion that he tried to raise the matter but to no avail is also false.

[35] Turning to the evidence actually given by the parents, and taking the mother first, she did not accept that she had caused parental conflict. Her case was that she had encouraged the children to go to their father on the agreed alternate week basis but that he had alienated the children from himself. For instance, Orla's weeks with her father stopped soon after an exchange between her and her father in the car as he drove her towards school. According to the mother Orla had reported that she said to her father that she looked like her mother. The father had replied with words to the effect "fat ugly bitch". This understandably greatly upset Orla and left her in tears.

[36] The mother denied having anything to do with a report to the police which led to the father's home computer being seized and searched for indecent images. In fact she suggested that he had somehow contrived to falsely report himself. She stated, accurately, that her phone number is stored by the father in his phone under the name "Witch" and that in his bank statements transfers of money to her are also to "The Witch". She contended that she was not guilty of the theft of the oil, a charge to which she had pleaded guilty, and said her statement about the events of that day which was used to obtain an ex-parte non-molestation order was inaccurate because she was traumatised not because she was dishonest.

[37] The mother denied ever saying anything bad against the father to the children but maintained that each of them has said to her separately that they will kill themselves if they are made to see him. In addition she said that the father had assaulted Orla when he attended her first day in secondary school. So far as Orla's progress at school was concerned there was a conflict between the parents about whether the school was the appropriate one for her in the first place, how she was progressing there and how much the father was kept informed by the mother about anything to do with Orla generally. There was also evidence about the father's efforts to take the children on a holiday abroad some years earlier and whether the mother had maliciously thwarted it. The mother conceded that the children, by not seeing their father, were missing out on having normal or any relationships with their cousins and others on the paternal side.

[38] Martin's contact with the father ended in February 2016. The circumstances were that the father arrived as usual to collect him from the mother's. By arrangement the father waited in the car for Martin to come out. This time Martin came out only to say that he was not going with his father. This was recorded by the mother from the house. In her evidence the mother claimed that this process was followed on the advice of social workers, a proposition they deny. Martin was 9 years old, going on 10, at the time and told his father "I can't do it anymore Daddy".

[39] In the father's evidence he accepted the allegations that he named the mother as "witch" on his phone and in his bank records. He supported a care order as a means of removing the children from the mother who he asserted was responsible for awful and malicious allegations that he is a paedophile with indecent images on his computer. He does not believe that the children's expressed wishes not to see him are their true feelings. He wants the children removed to his care, with expert support, for perhaps 3 months followed by a gradual re-introduction of the mother in to their lives. In advancing this proposition he relied on part of the evidence of Dr Berelowitz to the effect that in a scenario such as this, once a decision is taken to move the children it should be acted upon immediately and not in a drawn out manner.

[40] In cross-examination the father accepted that there are so many allegations by each parent against the other that it is hard to do the analysis suggested by Dr Berelowitz to decide if one is significantly worse than the other. He agreed however that some issues are easier to establish than others. He admitted, as he had to, the December 2010 incident of domestic violence which led to his convictions. He further admitted that in December 2016 he had said that if the mother was living in fear of her life he would be delighted and that in April 2017 at a case conference he had said that he wished she was dead.

[41] The father was questioned closely about his acceptance in May 2017 of threshold criteria and whether this was a genuine or a tactical concession on his part to make him appear reasonable at a time when the mother declined to accept threshold. This point was put with some force because in December 2015 his written response to the draft threshold criteria was to deny that threshold "had been met in any way by my actions or when the children are in my care". He challenged the Trust to prove threshold with all supporting evidence and key witnesses. His answer to the question in oral evidence was that he came to accept threshold in May 2017 by a process of "self-realisation".

[42] In relation to the oil tank incident he accepted that he had "enhanced" the bruising on Ms C, that he intended to pervert the course of justice to get the mother convicted and that he did so to level the scores on the assault conviction scoreboard.

[43] When cross-examined by Ms Sholdis the father accepted that his relationship with the mother was toxic, that the disputes between them could go on forever but that the children could not go on being fought over forever. He seemed resigned to the children not ever having both parents in their lives and accepted that the children have grown to resent visits from Ms Gillen.

The Guardian

[44] Ms Forster's evidence included the perspective that part of Martin's rationale for ceasing his shared residence with his father was that he missed seeing his sister every second week. She was anxious that the children know that they are not to blame for what has happened. Her ultimate analysis was that while it is not a good outcome, the least worst outcome is that the children stay with their mother without any direct contact with the father. In terms of indirect contact she suggested only that the father write once or twice a year and hope that he gets a response from the children at some point.

[45] When she saw the children in April 2018 Orla was firmly set against seeing her father. With Martin there was a sense of hopelessness. Further visits from Ms Gillen or herself or other experts are unlikely to help, she believed. Having said that she was able to add that when she went to the mother's home in April 2018 Martin had put on the mantelpiece a birthday card from his father and was excited to have received £50. (The father said that this was the first he had heard of that positive response to the card and gift he sent to his son.)

[46] Ms Forster considered that the children might not have been actively alienated from their father by their mother but that they knew about and had not been protected from the extreme animosity between them. By way of example, the parents fought a long battle over their ancillary relief issues. According to Ms Forster the children knew about the financial disputes both at the time of the shared residence and after that arrangement collapsed. Their later knowledge could only have come from the mother.

[47] A further example of the children's undue knowledge of events was that in the summer of 2017 Orla was able to tell Ms Forster the exact date of the December 2010 domestic violence incident. Ms Forster thought that that was shocking especially since Orla was only 7 years old at the time it happened. Her view is that the parents really do hate each other and that the children know that.

Conclusion

[48] This is a truly miserable case. Both parents attribute blame widely and have attacked a range of people including each other, social workers, experts and me for the state of affairs which has left the children damaged. I believe that the children are unhappy and know that they have been denied a better life by the actions of both of their parents but they have had to choose one over the other and have opted for their mother.

[49] The view of every expert witness is that both parents have contributed significantly to the state of affairs. I agree entirely with that. I have purposely set out the oil tank incident in detail to illustrate how despicably each of them is capable

of behaving. To make matters worse they are both prepared to lie to courts to try to give themselves an advantage.

[50] Despite that they both love their son and daughter and are capable in many ways of caring for them. What neither of them is prepared to do is to protect them from the extreme breakdown of the parental relationship. It is not possible to analyse each of the almost endless allegations which they have made and form a conclusion on each one. It is however important to record some particular findings as follows:

(i) There is no evidence whatever that the father is a paedophile.

(ii) There is no evidence whatever that he ever had indecent images on his computer.

(iii) The father can't or won't stop himself from openly denigrating the mother with terms like "witch" and "fat ugly bitch".

(iv) The children knew from both parents, but especially from the mother, details about their financial disputes.

(v) Martin was not encouraged to continue to stay with his father after Orla stopped staying with him.

(vi) Despite this Martin soldiered on for a further nine months or so.

(vii) Martin wants a continuing good relationship with his father as illustrated by his happy and positive reaction when he saw him in his new school comparatively recently. In all probability Orla wants a continuing good relationship with her father.

[51] I do not accept that it is ever too late to build a relationship between a parent and a child but it can be exceptionally difficult to do so in very bad cases such as this.

[52] It is clear beyond doubt that these children have both suffered and are likely to continue to suffer significant emotional harm as a direct consequence of the ongoing hostility and acrimony between the parents which has affected in a terrible way the care which the parents have given to them. The Trust proposed an admirably concise threshold criteria document which on 3 May 2017 the mother rejected because she didn't accept that she had, for example, failed to prioritise the children's needs above her own. I find that the two paragraph threshold document is proven against both parents.

[53] I was concerned about the possibility that the father conceded a slightly longer 11 paragraph threshold statement as a tactic. On reflection however, rather

like Ms Gillen, I find that there are moments when he is more reflective and, to use her term, winds down. The tragedy for him is that these moments are only occasional and that he then winds up again and goes back on the attack.

[54] The mother's refusal or failure to accept threshold is worrying. She is justified in being wounded and damaged by the father's behaviour on many occasions. But she too has behaved badly. Her interviews with Dr Berelowitz gave this away as did some of her exchanges with Ms Gillen, Ms Millar, Dr McCartan at an earlier stage in the proceedings and others. I also consider that she is not credible on issues such as the ENT consultation, the planned holiday abroad with the father and the contention that she was advised to video her young son terminating shared residence with his father in February 2016.

[55] In a way these conclusions represent the easy part of this judgment because I am simply accepting, on reflection, the evidence of Dr Berelowitz, Ms Gillen and others. As they have all made clear the difficult issue, the far more difficult issue, is what to do next. Dr Berelowitz was clear in his warnings about the life long impact on these children of their parents' conduct. But what can any court do about it? Is it appropriate or just or in the children's best interests to give up and somehow hope for the best but with the actual belief that the separation from their father will continue indefinitely?

[56] In my judgment that is an approach which I should make a further effort to avoid. Accordingly, I have decided as follows:

(i) I cannot say that the mother is markedly more to blame for what has happened to the children in terms of emotional harm than the father. That being so, I accept Dr Berelowitz's evidence that the children should not be removed from the care of their mother. I should add to this that especially in Orla's case, given that she is 15 years old, but also in Martin's case abrupt and forcible removal is not achievable or sustainable. For that to be a real option I believe the children would have to be significantly younger, perhaps even younger than they were when the shared residence started in 2014.

(ii) At this stage the shared residence order is of no meaning. It makes no sense to continue it, never mind add a penal notice to it as the father has proposed. In the circumstances I revoke it with immediate effect.

(iii) Having done that, I want the children to be informed in age appropriate terms of this judgment including the reasons for the decision which I have reached and the views of experts like Dr Berelowitz, Ms Stuart and Ms Gillen.

(iv) My hope is that if the children are reassured that they will not be removed from their mother's home they will be freed to reconsider the possibility of re-establishing contact with their father. There must at least be a possibility

that this will happen. It would be preferable if that contact was with both of them but it need not be simultaneous.

(v) The children need to be reassured that despite his many failings their father truly loves and cares for them in the same way that their mother does despite her similar failings.

(vi) I do not at this stage give the Trust leave to withdraw its application for a care order. The possibility of a care order, or perhaps a supervision order, is still a live one, depending on what progress can be made in contact.

(vii) If it is agreed to be potentially helpful, I am willing to meet the children but that is not an option which I want to propose yet. Before I see them, if I ever see them, I want them to have the reassurances which I have referred to above. I would also like some imaginative ideas about how to re-open the door to contact to be considered. For instance, at the end of the oral evidence I was told by the father that Orla had recently bumped into his sister and had a promising exchange with her. I wonder if some initial contact with this lady or with paternal cousins could be tried in order to pave the way for contact with the father. Sometimes the long way round is the better way to go.

[57] In light of the decision which is set out above I will allow two months to see if any progress can be made. I will review the case in or about late September and seek a Trust update in advance.