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(subject to editorial corrections)*

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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

BETWEEN

MF Applicant

-and-

MF Respondent

WEATHERUP J

The application

[1] This is an application by a father for contact with his daughters, R born 22 July 1993 and now aged nine, and A born 20 July 1996 and now aged six. The mother and father were married on 2 July 1988 and separated in July 2000. The application is opposed by the mother by reason of allegations of sexual abuse of the children made against the father.

The background

[2] Prior to July 2000 the marriage was reasonably happy and stable. Although there were two problems identified by the parties concerning their sexual relationship and the father's

interest in pornography, neither of these matters threatened the marriage. Relations between the father and the children were described as good by both parents. Circumstances changed as a result of events occurring from Friday 14 July 2000.

[3] The mother's evidence was that on the evening of Friday 14 July R had a complaint about an inflammation of the vaginal area. She was attended to by her father and treated by her mother but as her mother was settling her back into bed some exchange of signals took place between R and her father. The mother was aware at the time that the father had given a signal to R and she was unsettled. She lay awake and she did not know what was the problem but she described an uneasy feeling. Her evidence was that during the night she became aware of the father getting out of bed and going to R's room. When she asked him what he was doing he said that R had called out but the mother said that that had not been the case because she had been awake. The mother slept in R's bed for the remainder of that night. The following day the mother took the children to Newcastle and during that day R told her of an occasion when she had got into the parent's bed and the father had lifted the child's hand and put it on his penis. R told her mother that her father had told her not to tell her mother, as it was their secret. R was said to have been extremely upset when she was giving the information to her mother.

[4] The mother stated that she was confused about the information given by R and she thought that there must have been some explanation and but she did not immediately raise the matter with the father. However, the following day she sent the children to her sister's house and she then outlined to her husband the information given by R. He denied the allegation. The mother explained her approach to the situation at that time as being one of trying to understand what might have happened. She suggested to her husband that they might attend counselling to address any problem. He persisted in his denial and argument ensued and eventually the mother called the police.

[5] The father denied that he was responsible for any abuse of the children. He explained the exchange that had taken place between himself and R on 14 July as being entirely innocent as he had given R the thumbs up, and she had done the same in response, and that his action was just encouragement to R because she had been upset by the inflammation. He stated that when he and his wife went to bed that night they stayed in bed all night and he denied that he got up during the night as alleged by the mother. His evidence was that he did not hear R calling during the night and he did not go to her room and that the mother had made up this event. He described how, the following morning, when he went downstairs he found that the house was empty and the mother and the girls had left the house. They came back in the evening and there was some tension and he thought there was going to be a row and he went out in his car for some hours. The following day, which was Sunday, he stated that the mother tried to start a row and she was crying, shouting and screaming and wanted him to admit something. He was just stunned and he thought it was another one of the suspicions to which he said she was prone. He stated in evidence that he did not appreciate at that time the nature of the complaint that was being made. Eventually the mother phoned the police and he left the house.

[6] The mother and the girls went to see their General Practitioner on 17 July and the mother gave a report of events to the G P as described by R. This may have occurred in the presence of both girls as described in the G P's report although the mother said that her recounting of R's report had not occurred in the presence of the girls. The doctor examined R and found no evidence of trauma.

The interviews

[7] Also on 17 July the mother and children went to the Grove Centre where they were seen by a police officer and a social worker for the purposes of what was described as a

clarification interview. There is a record of that clarification interview set out in question and answer form, but at that time R did not make any disclosures of improper conduct by her father. The evidence was that during the meeting R was timid and anxious and wanted her mother and it was decided that it would be harmful to continue as R was reluctant to talk and indeed she was described in evidence as being quite distressed during the course of this interview.

[8] There followed a series of interviews of the children and the mother. The location was changed to the family home because of R's reaction to the interview at the Grove Centre. There was discussion between the social worker and the police officer and the mother as to the form in which the interviews would be recorded and eventually it was agreed that a police statement would be made from the notes of interview. On 21 July the social worker conducted a general interview with the mother and R and on 24 July she conducted an interview with the mother. The first joint protocol interview involving the social worker and the police officer and R, which touched on the issue of abuse of R, occurred on 27 July. There was no video of the interview, there was no audio recording of the interview and there was no question and answer note of the interview, but notes were taken and the note taker wrote up notes afterwards. The record of that interview sets out the discussions that took place and includes reference to events occurring in R's bedroom. R described an event where she was in bed and her father came in and sat on the bed and she said that he took her hand and put it on his penis. This was touching over clothes and it was reported as having happened a number of times and her father told R not to tell her mother. This was an event occurring, not in the parent's bedroom but in R's bedroom, and was therefore different to the event that had been described to the mother earlier. At the end of the interview with R the social worker spoke to the mother and advised her of what R had reported and the mother was said to be shocked at the information that had been given by R. It was the mother's

evidence that she had believed that the incident described to her by R had been a one-off incident and now she was finding out that there had been further incidents.

[9] The next joint protocol interviews took place in August 2000. Once again the method of completing that interview was without video or audio recording or question and answer notes. Again there were some notes made, and on that occasion a police statement dated 7 August was made by R. The statement described events involving R getting into her parent's bed when her mother was sleeping and the father putting R's hand under the covers on his penis. This corresponded to the incident that R described on the first occasion she made a report to her mother. R then described other events that had occurred four or five times in her own bedroom with her hand being put on the father's penis, on top of his trousers, and that the father had later told R, "Don't tell mummy because she would go away and die." This corresponded to the incidents that R described at the previous joint protocol interview.

[10] On the same date a statement was taken from the mother and there she set out an extended account of events occurring on the weekend from Friday 14 July 2000. She described at the end of the events of the weekend that she felt confused and annoyed and felt there must be some explanation. She also gave further details as to what happened on the Sunday after the initial report by R.

[11] The mother reported further allegations having been made against the father in November 2000. This led to joint protocol interviews with both R and A on 20 November. The accounts given at the interviews were reduced to police statements. In a statement dated 20 November R set out her new allegation. She described how her father lay down on top of her and he "squeezed his penis into my bum" and was wobbling about on top of her. Further she described events where her father used to tickle her on the bum "on the part where the wee comes out". It was stated that he tickled with his whole hand, that it happened two times and R described the two occasions. In addition, she stated that on another occasion the father

put his penis in her mouth. Accordingly R made three new allegations against her father in November 2000.

[12] In a statement dated 20 November 2000 A described that something had happened that she did not like. Her father had tickled her on her body and put wet tissue paper on her. A pointed out to the interviewers on a female child anatomical doll that the touching had been to the vaginal area.

[13] A further statement was obtained from the mother on 20 November 2000. She described the new disclosures that she said had been made to her one evening by the children. First of all A was reported as having stated to the mother that her father lay on top of her, this being similar to the new event described by R. Secondly, that the father had put her hands around his penis. Thirdly, that the father had put his bum to her lips. The mother stated that R, whom the mother had thought was asleep when the above events were being reported by A, then described how her father had put his penis into her mouth and her bum.

[14] Finally, there were interviews in January 2001. These interviews followed the discovery by the mother around Christmas 2000 of some pornographic videos behind furniture in the house. Upon their discovery R indicated that she had seen some of the videos. That disclosure led to the further interviews and again the same procedure was adopted and led to R making a further statement on 10 January 2001. R described how her father had shown her pornographic videos and she was able to describe a number of different videos. In one video R described a man who had not got proper hands, but he had penises on his hands. These images appeared on one of the videos discovered in the house by the mother. R also described another event that occurred when she and A and her father were in the kitchen and a sharp knife was used to cut R's feet and she stated that she was bleeding.

[15] The Defendant's response to all of the allegations was to deny that any such events had occurred. He contended that the allegations were an invention by the mother who then

coached the children. Further, he complained about the investigation procedures. The complaints concerned an inadequate interview system and the absence of challenge by the interviewers to the accounts given by the children and the absence of a case conference involving the father.

The investigation procedures

[16] In relation to investigation procedures Ms Walsh QC for the father referred to the Cleveland guidelines (Report of the Inquiry into Child Abuse in Cleveland 1987) concerning the conduct of interviews of this nature. Paragraph 12.12 indicates that the purpose of formal interviews should be to listen and hear what the child has to say. Paragraph 12.18 indicates the problem that may arise when there is reason to believe that there may have been abuse and the child may require help to give an account or where the assessment carried out is inconclusive. This is a second or so-called facilitative stage of the process and a somewhat different type of interview may take place. At this stage the interviewer may try a more indirect approach with the use of hypothetical or leading questions or taking cues from the child's play or drawings and the guidelines make the comment that there is a great danger which should be recognised and avoided that this facilitative second stage may be seen as a routine part of the general interview instead of a useful tool to be used sparingly by experts in special cases.

[17] The guidelines, at paragraph 12.34 provide a list of pointers that should be observed in relation to interviews and they are as follows. First, the undesirability of describing interviews as disclosure interviews, as that precludes the notion that sexual abuse might not have occurred. Second, all interviews should be undertaken only by those with some training, experience and aptitude for talking with children. Third, there is a need to approach each interview with an open mind. Fourth, the style of the interview should be open-ended

questions to support and encourage the child in free recall. Fifth, there should be, where possible, only one and not more than two interviews for the purposes of evaluation and the interview should not be too long. Sixth, the interview should take the pace of the child and not of the adult. Seventh, the setting for the interview must be suitable and sympathetic. Eighth, it must be accepted that at the end of the interview the child may have given no information to support the suspicion of sexual abuse and the position will remain unclear. Ninth, there must be careful recording of the interview and what the child says, whether or not there is a video recording. There was no such recording of the interviews in the present case. Tenth, it must be recognised that the use of facilitative techniques may create difficulties in subsequent court proceedings. Eleventh, it is of great importance that there be adequate training for all those involved. Twelfth, in certain circumstances it may be appropriate to use facilitative interviews but this should be a second stage of the process exercised with caution.

[18] Re D [1988] FLR 10 was decided by the Court of Appeal in England and Wales. Because of certain shortcomings in the interview of a child alleged to have been the subject of sexual abuse the Court of Appeal ordered a re-hearing. There had been disclosures made to the mother of the child's partner, and I shall call her the grandmother. The allegations were of physical and sexual abuse and the grandmother had completed some drawings with the child that tended to confirm the nature of the allegations that were being made. At a medical interview the child confirmed to the doctor what the grandmother told the doctor she had already been told by the child. However the child made no allegations at joint protocol interviews. There was an audio video recording of part of the questioning of the child at a therapeutic interview and not an investigation interview, so leading questions had been asked and there had been prompting. The child confirmed the earlier drawings and at a fifth interview new allegations emerged. The shortcomings in the process included the finding that

the interviews were repeated, that conclusion's were reached with the use of the therapeutic interviews, that there had been prompting, rehearsing, confirmation of prior allegations and reminders from the drawings.

[19] In the judgment of the Court of Appeal in Re D, at pages 17-18, Butler-Sloss LJ made a number of observations that are of significance in relation to the present case. First of all one has to be conscious of the difficulty of obtaining spontaneous evidence from a small child and the need for the social workers and the medical and other health professionals to be on their guard against prompting or leading questions to provide information. Secondly, some children have to be helped to give evidence but the greater the help provided by facilitating the answers the less reliable the answers. Thirdly, the more often the child is asked questions about the same subject the less one can trust the answers given. To remind the child of earlier answers and to show earlier drawings creates dangers as to reliability. Fourthly, efficient video and audio recording was most desirable. There would always be cases where these general guidelines were not followed and the evidence would nonetheless accepted but these would be unusual.

[20] In this case there was an absence of video evidence of the children's allegations, an absence of audio recording of the children's allegations, and no notes of questions and answers. There was a narrative of the answers and there were police statements written up at the end of the interviews from the notes made during questioning, which were read to and confirmed by those making the statements.

[21] The interviewers gave evidence about their approach to the investigation. The police officer indicated that she favoured a video recording but at the Grove Centre, where the video system was installed, R had become so unsettled that the Centre ceased to be a suitable location and video recording ceased to be an option. Accordingly the interview was moved to R's home where it was thought she might be more settled. The police officer stated that she

had no audio training. The social worker was the lead interviewer and the police officer made the notes at the time. She did not record the questions as she considered that the time taken to do so would have disrupted the flow from the child. She explained that she thought it important to note down the responses. The social worker agreed that video recording at the Grove Centre was not appropriate because of R's response to the initial clarification interview. She and the police officer had consulted with each other and the mother in relation to the interview system that they should adopt and had decided to make notes of the interviews and take a police statement. She stated that in the course of the interviews she tried to ask open questions and that that was more difficult with young children. It was her evidence that there were different options in relation to the questioning system but leading questions were avoided. She described how it proved difficult for R to give information.

[22] Dr Swann, an Independent Medical Specialist offering a Child Protection Consultancy and Training Service, considered the interviewing system, and she stated in her report, at paragraph 5.2, which she adopted as part of her evidence, that she had not been able to undertake her usual credibility assessment. While the notes of interviews were available they were not in question and answer form and therefore Dr Swann was heavily reliant on the investigating professionals. At paragraph 11 of her report she made a number of comments on the investigation. First of all she stated that she was unable to comment on the interviewing techniques, as she did not know how the interviews had been undertaken because of the manner in which they had been recorded. Dr Swann later satisfied herself to some extent in relation to this issue by interviewing the interviewers. Secondly, she stated that she was aware of the experience of the interviewers and she made the assumption that the interviews were not leading. After the writing of her report and before she gave evidence Dr Swann was assured by both interviewers that this had been the case. Thirdly she stated that in a complex case interviews should be fully recorded including questions and answers.

Fourthly she stated that where there was a wealth of information in the notes the professionals involved should give a summary of work undertaken. Fifthly, she stated that she was aware from the social worker's report that the social worker had looked at other possibilities than that the father was responsible for what was alleged to have happened. Dr Swann stated her opinion that it was particularly important that in the case notes there should be a record of the reasoning for the conclusion reached in relation to alternative possibilities. I endorse these general comments by Dr Swann in relation to this type of case.

The interviewers

[23] The information obtained in the investigation must be reliable. Reliability extends to the process by which the information is obtained and to the interviewers obtaining the information and to the contents of the information as well as to the sources of the information. The reliability of the process extends to adopting a method of reproducing reliable information to the court, as well as the other matters addressed in the Cleveland guidelines and Re D. The recording of information may be achieved by video or audio recording or by a written record of questions and answers. In the present case there was an absence of such a record of the interviews. In those circumstances it remains necessary for the party relying on the allegations to establish by some other means that the information presented to the court has been obtained in a reliable manner. In the present case the alternative adopted was to seek to affirm the reliability of the process actually adopted, even though it fell short of that recommended, and also to place greater dependence on the reliability of the interviewers who obtained the information.

[24] The interviewers gave evidence in relation to the methods they adopted in obtaining the information from the children. They expressed their belief that there should be avoidance of leading questions and of prompting the children so that the record that is obtained is that of

the child giving the information and that the interviewer does not contaminate the information. They explained the reasons for not undertaking the video or audio recording or a full note of questions and answers and clearly it would have been preferable had they adopted one such system. Although they did not employ any such system they did impress me with having a clear appreciation of the mischief being addressed in the guidelines and in Re D. I am satisfied that there were no leading questions, no prompting, and that although they did not make a complete record of the interviews the information was not contaminated by the manner of questioning undertaken by the interviewers.

[25] Further it is alleged that their approach was unchallenging in that the interviewers merely recorded that which was recited to them. The interviewers agreed in evidence that such disclosures were not challenged and indeed confirmed that the policy was to record what was said and to allow the teller to tell the tale. The techniques of eliciting information must reflect the fact that the interviewers are dealing with young children. The court must assess the information that is obtained in the light of the age of those who are giving the information and the method adopted by the interviewers and must assess the interviewer as well as the information the interviewer states has been received. The information was not rendered unreliable by reason of the absence of a challenge to the account given by the children.

[26] The next matter is the absence of a case-conference involving the father. The complaint was that his exclusion indicated an assumption that the father was guilty of the conduct alleged against him. The response to that complaint was that case-conferences are held to assess the approach to be adopted in relation to any risk to the children and as the father was not living in the house with the children he did not present a risk. However that response only serves to reinforce the complaint because it proceeds on the assumption that the father abused the children and that there had been no invention or coaching by the mother. Had there been such invention or coaching by the mother the risk would have been of

a different nature and the absence of the father from the home would not have addressed the real risk. However, in the present case the professionals who were engaged were conscious of and alert to the need to address the prospect of alternatives to the father having engaged in abuse and I am satisfied that they did do so. There is a danger that those investigating allegations may conclude at an early stage that the allegations are credible and thereby exclude one parent from the conferencing system when it may turn out to be the other parent who is driving the allegations. The assessment that was made in this case, by those who were mindful of the need to consider alternative possibilities, was that these were credible allegations and the case conferencing was undertaken in the context of that conclusion. In any event, although the father was not present at a case conference, his views had been made known to those involved.

[27] The process of recording the information from the children was not undertaken by the use of the most desirable means. This was not in accordance with the ninth pointer of the Cleveland guidelines although I am satisfied that the interviewers adhered to the other pointers. I accept the evidence of the interviewers that there was no prompting, that there were no leading questions and that the record of the information that is available reflects the account given by the children and that that account has not been contaminated by the approach of the interviewers.

Concoction by the mother

[28] It was the father's case that the children's account was invented by the mother and planted in the minds of the children and that she coached them to report to the authorities. In considering that issue it is necessary to address the question of motivation on the part of the mother. In considering the mother's position, account is taken of the relationship of the father and the mother at the time that these allegations emerged and particularly from the

mother's point of view to consider whether or not she had a motive for invention as the father suggests was the case. Prior to July 2000 there was a reasonably good relationship between the mother and the father. There were difficulties over sexual matters that had continued for a number of years and there were difficulties with the husband's interest in pornographic material and that too had continued for some years. Prior to July 2000 neither matter had been seen by either party as threatening the marriage. These allegations against the father did not follow the breakdown of the marriage, but rather they became the occasion for the breakdown of the marriage. Further, I accept that the mother's initial position with the father was to hope for an explanation rather than to press for a separation. His denials quickly led her to conclude that there had been a breakdown of trust, but she did not leap to that position. Further it seems that unless the mother was living with the father and harbouring some secret desire to expel the father and remove him from the children there is no explanation for the events of that weekend in July 2000 other than this new revelation occurred. Reference has been made to the mother's petition for Divorce, which was filed later, and which relied on other particulars of unreasonable behaviour that had occurred prior to the separation, but I am satisfied that they would not have been relied on and this whole issue of separation and divorce would not have arisen had it not been for these allegations.

[29] On the question of a motive for invention by the mother I have considered whether anything happening in the marriage, or in the relationships between all the members of the family, that would suggest that the mother would make false allegations against the father or that she was harbouring some desire to expel the father. I am satisfied that there is no reason why the mother would have invented these allegations in July 2000 and I am satisfied that she did not do so. I accept the mother's evidence that the disclosures were made to her by R as she has described and do not accept that they were invented by the mother and fed to the child. There were further allegations made at later dates as outlined above, the first of which

was described as having originated with A and then extended to R and the second of which was described as having originated with the discovery of the video tapes. I accept the evidence of the mother that the later disclosures were made in the manner that she described and that they were not invented by the mother and fed to the children.

Reliability of the mother's evidence.

[30] The father challenged the reliability of the mother's evidence. I give some examples without rehearsing all of the evidence that has been given in the case. There was an issue about the nature of the signal given between the father and R as to whether it was a finger raised to the mouth indicating that the child should be quiet or whether it was a thumbs up sign. The mother at an early stage did report that it was the thumbs up sign and stated in her evidence that it was a sign for the child to be quiet. The father agreed that he had made a signal and it was the fact of the exchange rather than the nature of the signal that gave the mother cause for concern. I do not attach significance to the mother's different descriptions of the nature of the signal that she believed had been given.

[31] Another example concerned the mother's reports of the information given by R and A in November 2000 where reporting was not entirely consistent. The mother stated in evidence that she did not have an explanation for any differences in the reporting of the information save that she had not kept a note of what R and A had said. The mother may have mixed up some of the details of the reporting of these matters by the children and I take that into account in assessing below the information given by the children.

[32] There were some direct conflicts in the evidence of the father and the mother, such as whether the father got up in the early hours of the Friday night/Saturday morning after R had complained of inflammation. I am satisfied that the father did get up and that the mother and father spent the night apart. The mother and the girls left in the morning before he had got up,

although the children had looked in on him in the morning. I am satisfied that although the mother was confused about the details of the reports made by the children in November 2000 she gave an honest and reliable account of events. Overall I am satisfied that the evidence of the mother was honest and reliable.

Reliability of the information provided by the children.

[33] Information was provided by the children in what was described as a staggered manner in that the girls reported the allegations in the stages described above. The first stage arose out of the events of 14 July 2000 and involved the initial investigations that produced additional information to that first reported by the mother. Then there was the additional information that was reported by the mother in November 2000 involving both A and R, although that information was not repeated by A at the joint protocol interviews. The final stage was at Christmas and the New Year and arose after the discovery of the videos by the mother. Dr Swann's comment on staggered reporting of allegations of abuse was that it was typical of the manner in which such information is revealed by children and I have no reason to doubt that that is indeed what one might expect from children of such an age as R and A.

[34] R was interviewed on more than one occasion about the same report. It is necessary to be mindful of the diminished reliability of the repeated interviews about the same report. In the present case I do not find that the repeated interview about the same report had a significant impact on the reliability of that report. The repetition occurred in the context of the staggered reports of alleged incidents where new allegations were raised at the interviews.

[35] A further matter concerned the change of attitude of the children to the father, which it was suggested was an indicator of unreliability and indeed of coaching. The children formerly had a good relationship with their father and after the separation in July 2000 the

children were stating that they did not want to see their father. The mother's reaction to the children's information about the father clearly became one of hostility to the father and that negative reaction cannot fail to have impressed itself upon the children, even if it remained unspoken. The mother's view that the father should not see the children no doubt transmitted itself to the children, even if it remained unspoken. I am satisfied that the mother has not set out to coach the children to declare that they do not wish to see their father, but I would accept that their views are a result of the mother's reaction based on her belief in what has happened to the children. The children's views do not determine the outcome of this application.

[36] Another basis of unreliability on the part of R concerned the allegedly untrue descriptions that R gave in relation to certain events. One such situation concerned R's school and I am satisfied that R made a complaint that was not established as being accurate in relation to events in school. The other situation concerned the father's alleged use of a knife on R's feet and that may be an example of an event that did not happen. In view of these matters it is necessary to exercise caution in assessing the information furnished in relation to the father.

Findings in relation to the allegations of abuse

[37] The standard of proof is the balance of probabilities. First of all I have to be so satisfied that there is the necessary evidence of sexual abuse and the necessary evidence that the father has committed the acts. Because these are serious issues the standard is high, although still expressed in terms of the balance of probabilities. Taking account of all the matters to which I have referred I am satisfied that R was abused by her father as she has

described. I am satisfied that the mother did not invent the allegations. I am satisfied that R has given a reliable account of sexual abuse by her father. I am not satisfied that A was abused by her father. A described to her mother the events that she said had occurred, but with references undoubtedly being made within the home to the matters described by R and those references inevitably coming to A's attention, I am not satisfied that those descriptions of sexual conduct that she gave to her mother were matters that had happened to her. The description given by A to the interviewers concerning the tissue may be an instance of abuse but in considering all of the circumstances I am not satisfied to the required standard that there was abuse of A.

The order

[38] It is necessary to consider this application for contact under the statutory approach in the Children (NI) Order 1995 in the light of the finding that there has been abuse of one of the children. Article 3 provides that the child's welfare is of paramount consideration and in an application for a contact order the court shall have regard in particular to the statutory welfare checklist. There is a two-stage process. First of all it is necessary to decide the facts and the findings in regard to the allegations of abuse are set out above. Secondly, it is necessary to consider the impact of the findings on the application and apply the welfare checklist. The ascertainable wishes and feelings of the children are against contact with the father. Their physical and educational needs are being addressed but their emotional needs and the likely effect of any change of circumstances are concerned with their negative reaction to renewed contact with the father. I have found that R has suffered harm and consequently there is a risk to R and A. The mother is capable of looking after the needs of the children. However there is a presumption in favour of contact and there is benefit to a family unit arising from contact with the father, provided the children are safe and secure and

the adverse effects of such contact do not outweigh the benefit so as to be contrary to the children's welfare. There is the hostility of the mother and its effect on the children but it is not by her hostility that the proper disposal in this case should be ascertained.

[39] Dr Swann's report, at paragraph 18.2, states that if the court decides that there is evidence that the children have been sexually abused she advises no contact. Mr McMahan, family therapist, has also advised the mother and children in this case and has provided a report and given evidence to the court. I have had no regard to the therapeutic evidence in deciding the facts of the case, as inquiries made in the course of therapy serve a quite different function, and must be dealt with in a different manner to that which emerges from the investigation. However when it comes to determining the order that ought to be made I do take account of his evidence. He has been counselling the children and the mother for some time. In his report he stated that he had discussed with the mother the possibility of the father having supervised contact with the children following a period of careful planning and preparation and which in his opinion should only take place if supported by both the children and the mother. The mother and children were stated to have been opposed to such a proposal and in Mr McMahan's opinion it would be extremely counter-productive and damaging if the mother's wishes and the wishes of the children were to be overruled on that matter. The particular issue for Mr McMahan was stated to be the fact that the father had not acknowledged culpability. It was his opinion that many children and their families can be helped by admissions of culpability from the perpetrator of abuse and even by ongoing contact with an abusing parent if the conditions of safety and security are met. In the present case Mr McMahan considered that the conditions of security and safety were not met and he stated that he had no hesitation in strongly recommending that the father's application be refused.

[40] I consider there to be risks to both children. In those circumstances unsupervised contact is out of the question. Supervised contact should be considered but I accept Mr McMahan's evidence as to the reasons why supervised contact is not in the best interests of the children at present. There is also opposition to supervised contact from the mother and the children, but as indicated earlier that in itself is not determinative of the matter. In those circumstances I make no Order in respect of supervised contact. The question of indirect contact arises. Mr McMahan's opinion was that indirect contact would be inappropriate unless the children were well prepared. As some contact with the father would be desirable, provided there is proper security and the contact does not have an adverse effect on the children and is compatible with the children's welfare, I consider that it is not appropriate at this stage to terminate all contact. Accordingly, some preparation for indirect contact should be undertaken. The children's birthdays are in July. There should be preparation for indirect contact with the children by birthday cards next July, as a first step in a process that can be re-considered after that event.

[41] Ms McGreenera QC for the mother applied for an order under Article 179(14) of the Children (NI) Order. This would require the father to obtain the leave of the court in order to seek a further contact order. As I have concluded that it would be appropriate to begin a stage of preparation for indirect contact, it would not be appropriate to require the father to obtain leave before seeking further contact orders.