

THE HIGH COURT

2006 No. 20 HLC

**IN THE MATTER OF THE CHILD ABDUCTION AND ENFORCEMENT
OF CUSTODY ORDERS ACT, 1991 AND IN THE MATTER OF THE LUXEMBOURG CONVENTION AND IN THE MATTER OF P. J. H. R.
AND IN THE MATTER OF J. M. H. R.**

BETWEEN

**R. G. H. R.
AND
L. M. G.**

Judgment of Ms. Justice Finlay Geoghegan delivered the 19th day of July, 2006.

1. The applicant is the father of the two boys named in the title who were born on 6th July, 1994 and 14th September, 1996 respectively. The respondent is the mother of the boys. The applicant and the respondent are not and have not been married to each other.

2. On 22nd July, 2004, the Oxford County Court (His Honour Judge Compston) made an Order for Residence and Contact in respect of the boys in proceedings brought by the applicant herein. That order provided, inter alia, that the boys reside with the respondent and ordered that the applicant have contact for specified periods during holidays, at certain weekends and also telephone contact. By the same order the respondent was given permission to remove the boys permanently from the jurisdiction of England and Wales to reside in Ireland. This latter order is expressed to be "for the avoidance of doubt". The respondent appears in fact to have been residing in Ireland with the boys since 1998 or 1999.

3. In these proceedings heard before me on 14th July, 2006, the applicant seeks an order pursuant to article 7 of the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children ("Luxembourg Convention") as implemented in this jurisdiction by the Child Abduction and Enforcement of Custody Orders Act, 1991 ("the Act of 1991") for the recognition and enforcement of the Residence and Contact Order made in the Oxford County Court on 22nd July, 2004, ("the July 2004 Order"). A copy of the July 2004 Order is attached to this judgment for clarity.

Applicable law

4. Article 7 of the Luxembourg Convention provides:-

"A decision relating to custody given in a Contracting State shall be recognised and, where it is enforceable in the State of origin, made enforceable in every other Contracting State."

5. The Luxembourg Convention has been enacted into law in Ireland by the Child Abduction and Enforcement of Custody Orders Act, 1991. Section 21(1) of the Act of 1991 provides:-

"Subject to the provisions of this Part (including the restrictions on recognition and enforcement of a decision relating to custody contained in section 28 of this Act), the Luxembourg Convention shall have the force of law in the State and judicial notice shall be taken of it."

6. It is common case that the July 2004 Order is a "decision relating to custody" within the meaning of article 1 of the Luxembourg Convention. That definition includes decisions relating to the right of access or contact in the terms used in England and Wales.

7. The grounding affidavit herein exhibits a certificate of enforceability of the July 2004 Order from the Central Authority for England and Wales. Accordingly, the applicant is entitled to the relief sought unless the respondent establishes that the Court should refuse recognition and enforcement on one of the grounds specified in the Luxembourg Convention. The onus of establishing the facts which would justify a refusal rests on the respondent in accordance with the decision of the Supreme Court in *R.J. v. M.R.* [1994] 1 I.R. 271. In that case Finlay C.J. stated at p. 289:

"The terms of the Luxembourg Convention provide in art. 7 for an unqualified enforcement of orders relating to the custody of children made in one contracting state by another contracting state, and then provide in arts. 8, 9 and 10 certain specific and limited grounds for refusal.

I am satisfied that it is the party that submits that the Court should refuse to grant an order who bears the onus of establishing the facts which would justify such refusal."

8. The permissible grounds upon which an application for recognition and enforcement may be refused by the courts of the State addressed are set out in articles 9 and 10 of the Luxembourg Convention. It is common case that article 9 is not relevant. The respondent sought to rely on article 10.1(b) and (c). These provide:

1. In cases other than those covered by Articles 8 and 9, recognition and enforcement may be refused not only on the grounds provided for in Article 9 but also on any of the following grounds:

a. ...

b. if it is found that by reason of a change in the circumstances including the passage of time but not including a mere change in the residence of the child after an improper removal, the effects of the original decision are manifestly no longer in accordance with the welfare of the child;

c. if at the time when the proceedings were instituted in the State of origin:

i. the child was a national of the State addressed or was habitually resident there and no such connection existed with the State of origin;

ii. the child was a national both of the State of origin and of the State addressed and was habitually resident in the State addressed;"

9. Article 10 of the Luxembourg Convention authorises the contracting States to permit refusal on the grounds set out. The Oireachtas implemented this provision by enacting s. 28 of the Act of 1991 which insofar as relevant provides:-

"28. - (1) The Court shall refuse an application made under this Part for recognition or enforcement in the State of a decision relating to custody where-

(a) ...

(b) in relation to a decision to which Article 9 or 10 of that Convention applies, the Court is of opinion on any of the grounds specified in the said Articles that the decision should not be recognised or enforced in the State;"

10. The applicant also relies upon article 11 of the Luxembourg Convention which provides:-

"1. Decisions on rights of access and provisions of decisions relating to custody which deal with the right of access shall be recognised and enforced subject to the same conditions as other decisions relating to custody.

2. However, the competent authority of the State addressed may fix the conditions for the implementation and exercise of the right of access taking into account, in particular, undertakings given by the parties on this matter."

Issues

11. The grounds upon which counsel for the respondent submits that this Court ought to refuse the order for recognition and enforcement may be summarised as follows.

1. Pursuant to article 10(1)(c)(ii), as the children were habitually resident in Ireland prior to 2004 and were nationals of both England and Ireland.

2. Pursuant to article 10(1)(b), by reason of the passage of time since July, 2004 and the other relevant facts stated in the affidavits of the respondent there have been changes of circumstance such that the effects of the July 2004 Order are manifestly no longer in accordance with the welfare of the children.

3. If this Court were now to make an order for recognition and enforcement then the substantive provisions of the July 2004 Order could only be reviewed by the Oxford County Court. Further, whilst it is accepted that Council Regulation (EC) No. 2201/2003, (Regulation 2201/2003) does not apply to the July 2004 Order nor to this application, it is submitted that such a situation would be contrary to the intention of article 9 of Regulation 2201/2003 which provides that where, as in this instance, a child moves lawfully from one Member State to another and acquires a new habitual residence, that the courts of the Member State of origin only retain jurisdiction during a three-month period following the move for the purpose of modifying a judgment on access rights issued in that Member State.

12. In response, the submissions of counsel for the applicant were as follows:

1. The Court is confined to the grounds of refusal set out in the Luxembourg Convention and accordingly the submission in relation to Regulation 2201/2003 is not well founded.

2. There is no evidence before the Court that the boys were nationals of both England and Ireland at the date of the commencement of the proceedings in Oxford County Court in which the July 2004 Order was made. Reliance was also placed upon the undertaking of the respondent recorded in the July 2004 Order both to co-operate with the applicant in his application to the Irish courts for a mirror order and to submit to the jurisdiction of the Irish courts for the purposes of making a mirror order to reflect the terms of the July 2004 Order for the purposes of enforcement.

3. Article 10 of the Luxembourg Convention only applies where there has been a wrongful removal of the child concerned. If such submission is not accepted and Article 10 applies to the facts herein then that the evidence before the Court falls short of discharging the requisite onus of proof that the "effects" of the July 2004 Order, are "manifestly" no longer in accordance with the welfare of the boys.

Conclusions

13. The Court is confined to refusing an application for recognition or enforcement to those grounds set out in the Luxembourg Convention, as implemented by the Act of 1991. The only provision relevant to the facts of this application is s. 28(1)(b) of the Act of 1991. This mandates refusal where, in a matter to which article 10 applies (as is asserted on the facts herein) the Court is of opinion on any of the grounds specified in that article that the July 2004 Order, should not be recognised or enforced. It is common case that Regulation 2201/2003, having regard to the transitional provisions in article 64 does not apply to the July 2004 Order and this application for its enforcement. Hence the Court has no jurisdiction to refuse recognition on the third submission referred to above, made on behalf of the respondent.

14. I have also concluded that there is nothing in the wording of article 10 of the Luxembourg Convention which supports the submission made on behalf of the applicant that article 10, or even article 10(1)(b) only applies where there has been a wrongful removal of the boys. It appears to me that the opening phrase of article 10 makes clear that it applies "in cases other than those covered by articles 8 and 9" which in turn refer to a wrongful removal. Counsel for the applicant sought in particular to rely upon the phrase in article 10(1)(b) which excludes "a mere change in the residence of a child after an improper removal" from what the court may consider to be a change in the circumstances of the child. It does not appear to me that this warrants construing article 10 as only applying where there has been wrongful removal having regard to the opening words of article 10 and the entire scheme of the Luxembourg Convention.

15. As already stated, the onus of proving the facts relevant to the grounds relied upon by the respondent for refusal rests on the respondent. There are no facts on the affidavits before the Court from which the Court could conclude that as a matter of probability the boys were nationals of both England and Ireland at the date of the commencement of the proceedings in the Oxford County Court in which the July 2004 Order was made. Counsel for the respondent sought only to rely on article 10(1)(c)(ii). On the wording of that article it appears to me that the specified conditions are cumulative. The child has to both have been a national of England and

Ireland and habitually resident in Ireland at the date of the commencement of the relevant proceedings in England before article 10(1)(c)(ii) constitutes a relevant ground of refusal in the application to enforce the July 2004 Order. Accordingly, it is unnecessary for me to determine either the relevant date of commencement of the proceedings (counsel for both parties were unclear as to whether there were new proceedings in the Oxford County Court in 2003 or if they were a continuation of proceedings commenced in 2001) or whether the boys were habitually resident in Ireland at the relevant date.

16. Having regard to the above conclusions the outstanding issue is whether the respondent has established that the effects of the July 2004 Order are manifestly no longer in accordance with the welfare of the boys by reason of a change or changes in the circumstances including passage of time within the meaning of article 10(1)(b) of the Luxembourg Convention.

17. There are two potential changes of circumstances since July, 2004 about which there is not significant dispute.

- i. a period of approximately two years to the commencement of this application which was on 6th June, 2006; and
- ii. the fact that the boys are now habitually resident in Ireland.

18. I am aware that the respondent asserts that they have been habitually resident for a longer period and prior to July, 2004. If this is correct (and I am not so holding as it is disputed and the evidence neither permits me nor does it appear necessary to resolve the dispute) then it would not be a change of circumstances. However, for the purposes of determining this aspect of the case I am treating it as a relevant change of circumstance.

19. The other matters relied upon by the respondent are disputed. They relate to alleged breaches by the applicant of undertakings given to the Oxford County Court and recorded in the July 2004 Order and to difficulties which the respondent believes the boys have experienced during the periods they stayed with the applicant.

20. The onus imposed on the respondent by the use of the word "manifestly" in article 10(1)(b) of the Luxembourg Convention is heavy. Counsel for the applicant drew attention to the approach of Finlay C.J. in *R.J. v. M.R.* [1994] 1 I.R. 271 where, at p. 289, he stated:

"Furthermore, I am satisfied that it is necessary that the Court in construing the provisions of art. 10, para. (1) (a) and (b) should give to the word "manifestly" a definite and commonsense meaning. The insertion of the word "manifestly" must indicate that the standard of proof which is necessary for a person objecting to the making of an order for the return of a child is a standard which is something more than the probability appropriate for ordinary proof in civil actions.

21. I am satisfied that there are no grounds for suggesting that it could be as much as an onus of proving the matter as a certainty or beyond a reasonable doubt.

22. I am satisfied that to give effect to the word "manifestly" it must be interpreted as placing upon the party objecting to the making of the order an onus to prove the incompatibility as a matter of high probability."

23. Those observations were made in the course of an application for an order for the return of a child pursuant to the Luxembourg Convention and a consideration of a defence under article 10(1)(a) where the issue is whether the effects of the decision are manifestly incompatible with the fundamental principles of the law relating to the family and children in the State addressed.

24. In the matter of *R.W. and C.C.* [2004] 3 I.R. 108 I reached a conclusion on the facts of that case that "as a matter of high probability" the relevant change of circumstances would be damaging to the welfare of the children concerned and manifestly no longer in accordance with their welfare. As stated in that judgment such an approach appeared consistent with the approach taken by Ward J. in the High Court and recited without objection by Sir Stephen Brown P in the Court of Appeal in *re H. (a minor)* [1994] 1 A.E.R. 812 at p. 813:

"... 'Manifestly', in that regard must mean shown quite plainly and quite obviously to be contrary to her welfare."

25. On the facts adduced in evidence, including by the respondent in her affidavit in relation to the alleged breaches of undertakings and the boys' alleged difficulties with staying in contact, I am not satisfied that the effects of the July 2004 Order are now "manifestly no longer in accordance with the welfare of the [boys]".

26. On the affidavit evidence of the parties, it appears that there have been difficulties in implementing the July 2004 Order. It would not be appropriate on the affidavit evidence alone to determine responsibility for those difficulties. One of the difficulties undoubtedly relates to what would appear to be a failure of both parties to comply with identical undertakings given to the Oxford County Court "to negotiate the specific dates of the holiday contact with the [applicant/respondent] no less than two years before the year in which the contact is to take place (i.e. before 1st January, 2005 for the year 2007)". However, such difficulties in the implementation of the July 2004 Order are separate and distinct from the effect of the order on the welfare of the boys. The effect of the July 2004 Order is that the father is to have staying contact for the periods specified in the order and telephone contact as specified.

27. I would also be prepared to accept that as the two boys named in the title are now two years older than they were in July, 2004, that it may be time, in the interest of their welfare, that the terms of the order for contact be reviewed and that they be interviewed (as was previously done by the Children and Family Court Advisory and Support Service (CAFCASS)) as part of the review. This also appears to have been envisaged by His Honour Judge Compston in his judgment which gave rise to the July 2004 Order and which has been exhibited in these proceedings. However, again that is quite a different conclusion from the conclusion that the present contact order is manifestly no longer in accordance with their welfare, which would be required of this Court under article 10(1)(b), before this Court has jurisdiction to refuse to make the order for recognition and enforcement.

28. I also accept that it may now be desirable in the interests of the welfare of these boys that future court applications in relation to access be made in this jurisdiction as they are now habitually resident in this jurisdiction. On behalf of the applicant it is accepted that it may be appropriate that future applications be made in this jurisdiction. However, it is submitted that the desirability of this being done in the interests of the welfare of the boys is a different conclusion from a conclusion that as of now the effects of the July 2004 Order are manifestly no longer in accordance with the welfare of the boys. I accept this distinction. It is also submitted that pending any application to Oxford County Court to vary the July 2004 Order and/or to permit future applications to the courts in Ireland that the applicant is entitled to an order for recognition and enforcement.

29. As I have concluded that the respondent has failed to establish a ground for refusal under article 10 of the Luxembourg

Convention this Court is bound by article 7 of the Luxembourg Convention, as implemented by the Act of 1991, to make the order sought for the recognition and enforcement of the residence and contact order made in the Oxford County Court on 22nd July, 2004. The Court has no jurisdiction under the Luxembourg Convention, as implemented by the Act of 1991, to refuse recognition and enforcement by reason only of the desirability in the interests of the welfare of the boys that future applications as to the substance of contact or access be made in this jurisdiction. The respondent is in a position to achieve this by an application to the Oxford County Court for the reasons set out below.

Article 11

30. The remaining issues relate to what, if any, orders should this Court make pursuant to article 11(2) of the Luxembourg Convention for the implementation of the right of access in the July 2004 Order.

31. Each party gave a number of undertakings to the Oxford County Court and it is clear that the July 2004 Order made by that court which recites those undertakings was made, at least in part, on the basis of those undertakings. Insofar as this Court is now making an order for the recognition and enforcement of the July 2004 Order of the Oxford County Court, it appears appropriate that the parties give those of the undertakings which remain relevant also to this Court. Each party has indicated a willingness to do so.

32. The relevant undertakings of the respondent are those given to Oxford County Court at paras. (c) and (d).

33. The relevant undertakings of the applicant are those given to Oxford County Court at paras. (a) to (m) inclusive, with the exception of para. (e).

34. The order of this Court will note such undertakings are now given to this Court.

35. For the reasons already stated it now appears desirable that future applications in relation to contact or access might be made to the Irish courts. It is common case between the parties that after 22nd July, 2006, an application may be made by either party to the Oxford County Court to vary the terms of the order of July 2004 Order. It is further common case that as the boys are now habitually resident in Ireland if the Oxford County Court now makes a new order in the existing proceedings in England varying the July 2004 Order, that such new order will be subject to the provisions of Regulation 2201/2003 and in particular article 9 thereof. Thereafter the English court would only appear to retain jurisdiction in relation to the boys for a period of three months and the Irish courts would subsequently have jurisdiction pursuant to article 8 of Regulation 2201/2003. In the course of the hearing before me the applicant, through his counsel, offered to the Court an undertaking to co-operate with any application which the respondent might make to the Oxford County Court for the purpose of making a new contact order to which Regulation 2201/2003 would apply. Such undertaking will be noted in the order now made.

36. No dates for contact during the summer holidays of 2006 have been agreed. In accordance with paragraph 3(b) of the July 2004 Order, such contact should be for a period of four weeks, divided into two blocks of time. The failure to agree the dates results from the failure of the parties to negotiate the dates two years in advance in accordance with the undertakings given to Oxford County Court. The applicant must bear a significant responsibility for this failure as he is the person in whose favour the contact orders are made and he has failed, until recently, to specify the dates he is seeking contact during the summer holidays.

37. As it is now the third week of July, 2006, it appears to be within the jurisdiction of this Court under article 11(2) of the Convention to provide by way of implementation for the right of access during the remainder of the summer holidays of 2006 that contact be for one block of two weeks only and, in the event that the parties fail to reach agreement, this Court will determine the relevant period having heard the parties.

38. In respect of the Christmas holidays 2006 and 2007, as the dates have not yet been negotiated and there remains less than two years to assist in the implementation of the right of access provided in the July 2004 Order, the Court now directs that the applicant should, on or before 15th September, 2006, specify the dates during which he is seeking contact during the Christmas holidays 2006 and 2007 in accordance with the July 2004 Order. Further that the parties should then immediately enter into negotiations in respect of those dates and in the event that no agreement is reached on or before 15th October, 2006, the parties should enter into a mediation process in this jurisdiction in relation to the contact dates for the Christmas holidays 2006 and 2007.

In the Oxford County Court

Case Number- OX03P00231

Order Residence, Contact, Specific Issue and Prohibited Steps Order Section 8 Children Act 1989

The full names of the children Boy or Girl Dates of Birth

Boy

Boy

The Court orders *** SEE ATTACHED ORDER ***

Warning Where a residence Order is in force no person may cause the children to be known by a new surname or remove the children from the United Kingdom without the written consent of every person with parental responsibility for the children or the leave of the Court.

However, this does not prevent the removal of children, for a period of less than 1 month, by the person in whose favour the Residence Order is made (Sections 13(1) and (2) Children Act 1989).

It may be a criminal offence under the Child Abduction Act 1984 to remove the children from the United Kingdom without

the leave of the Court.

Notice Any person with parental responsibility for children may obtain advice on what can be done to prevent the issue of a passport to the children. They should write to: London Passport Office, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Ordered by His Honour Judge Compston

On 22nd July 2004

IN THE OXFORD COUNTY COURT OXO3P00231

OXO1 P 00339

IN THE MATTER OF

IN THE MATTER OF THE CHILDREN ACT 1989

BETWEEN:

-and-

Applicant

Respondent

Before His Honour Judge Compston, sitting at the Law Courts, St. Aldates, Oxford, on the 21st and 22nd July 2004.

1. On hearing the solicitor for the Applicant, leading counsel for the Respondent, and counsel for CAFCASS Legal, and on receiving the oral evidence of Peter Bailey, and on reading the documents filed herein.

2. AND upon the Respondent mother undertaking:

- (a) to co-operate with the Applicant father in his application to the Irish Court for a mirror order;
- (b) to subject herself to the jurisdiction of the Irish Courts for the purposes of the appropriate Irish Court making a mirror order to reflect the terms of the order herein for the purposes of enforcement;
- (c) not to remove the children to any other jurisdiction save England and Wales / the Republic of Ireland without leave of this Court, or of the Court of the Republic of Ireland whichever court shall properly be seised of jurisdiction in relation to the children, or the agreement of the Respondent in writing, upon which occasions the Respondent mother further undertakes to give details of the location to be visited, the date of the outward and return journey and to provide true copies of the travel arrangements and tickets;
- (d) to negotiate the specific dates of the holiday contact with the Applicant father no less than 2 years before the year in which the contact is to take place (i.e. before 1st Jan 2005 for the year 2007)

3. AND upon the Applicant father undertaking:

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- (a) not to remove the children from the care of the Respondent mother save for the purposes of contact as provided for by this order, or with the agreement of the mother in writing;
 - (b) to return the children to the jurisdiction of England and Wales at the end of any contact visits outside the jurisdiction of England and Wales, save for contact in the Republic of Ireland;
 - (c) to return the children to the care of the Respondent mother at the end of each contact visit;
 - (d) not to remove the children to any other jurisdiction save England and Wales / the Republic of Ireland without leave of this Court or of the Court of the Republic of Ireland whichever court shall properly be seised of jurisdiction in relation to the children, or the agreement of the Respondent mother in writing upon which occasions the Applicant father further undertakes to give details of the location to be visited, the date of the outward and return journey and to provide true copies of the travel arrangements and tickets;
 - (e) to issue proceedings in the appropriate Irish Court for the purposes of obtaining a mirror order reflecting the terms of the order herein for the purposes of enforcement; and
 - (f) to pay the reasonable costs of obtaining such an order;
 - (g) to provide the Respondent mother, in advance, with the address of where the children shall be based during all periods of contact while they are in Great Britain and Ireland;
 - (h) to provide the Respondent mother with the address and contact details and (if relevant the name of the hosts) where the children shall be staying for all periods of contact which take place outside the jurisdiction of Great Britain and Ireland
- Adaptation of the undertaking given on the 8th April 04.

4. Page 2 23 July, 2004; this information to be provided to the mother as soon as available, but in any event no less than 14 days before the date fixed for the contact;

(i) not to telephone the mother after 9 p.m. save in an emergency;

(j) not to telephone the mother's home on the landline save in an emergency;

(k) to negotiate the specific dates of the holiday contact with the Respondent mother no less than 2 years before the year in which the contact is to take place (i.e. before 1st Jan 2005 for the year 2007);

(l) to be responsible for arranging and paying for the children's flights on each occasion from Ireland to England and from England to Ireland for the purposes of contact visits;

(m) to use his best endeavours to book the tickets for all flights (whether England/Ireland, Ireland/England or for travel abroad) at least 6 weeks in advance and give the Respondent mother relevant details of the flights at

5. the same time, save in the case of an unavoidable emergency which makes this impossible.

6. AND upon the Court noting that:

1) The mother is opposed to the children hot air ballooning, and is concerned about the boys being unsupervised out of the father's immediate care;

2) The mother is opposed to the boys swimming naked in the presence of third parties;

7. And upon the premise that the father has his permanent home base in England.

8. And on the basis that all earlier undertakings and orders are discharged.

9. It is Ordered that:

1. The father's application for an adjournment of the application, and for a further CAFCASS report be dismissed;

2. The children do reside with the Respondent mother, who, for the avoidance of doubt is given permission to remove the children permanently from the jurisdiction to reside in the Republic of Ireland;

3. The children do have contact with the Applicant father as follows:

(b) Summer holidays: for a period of 4 weeks, divided into two blocks of time;

(c) Christmas holidays and Easter holidays: for a period of one week in each holidays;

(d) Alternate Christmas days and Easter days to be spent with each parent;

(e) One week in the Halloween half-term;

(f) For a long weekend (Thursday to Sunday) in the mid-term of the Easter term each year, and for the Punchestown festival each year,;

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which contact shall take place in Ireland; the parties to agree the collection and delivery times no less than 14 days in advance

(g) Other weekend and/or service holidays contact to take place in Ireland the dates to be agreed between the parties.

(h) Telephone contact, twice per week on a Monday and a Thursday evening between 6.30 and 7.30p.m. The father to telephone the children's mobile telephones at this time.

4. During periods when the children are having staying contact with their father, the mother may keep in touch with the children by telephoning every day, and the father has no objection to the children phoning the mother whenever they reasonably wish.

6. Both parties are prohibited, pursuant to the provisions of section 91(14) of the Children Act 1989 from making any section 8 application concerning the children for a period of two years, without obtaining the prior permission of the court. For the avoidance of doubt, this does not affect applications to enforce the current order.

7. For the avoidance of doubt, the Respondent mother is discharged from her undertaking given at (a) on 17th June 2002.

8. The Respondent mother is to pay the Applicant father's costs of the ex parte application of the 7th July 2004 of £1,030;

9. The Applicant father is to pay the Respondent mother's costs of, and incidental to, the specific issue order relevant to the schooling for the children, to be assessed if not agreed. The mother is permitted to set off the costs order at paragraph 8 against the costs order herein.

22nd July, 2004.

