



[\[Home\]](#) [\[Databases\]](#) [\[World Law\]](#) [\[Multidatabase Search\]](#) [\[Help\]](#) [\[Feedback\]](#)

England and Wales High Court (Family Division) Decisions

You are here: [BAILII](#) >> [Databases](#) >> [England and Wales High Court \(Family Division\) Decisions](#) >> RH (Parental Alienation) [2019] EWHC 2723 (Fam) (03 October 2019)
 URL: <http://www.bailii.org/ew/cases/EWHC/Fam/2019/2723.html>
 Cite as: [2019] EWHC 2723 (Fam)

[\[New search\]](#) [\[Printable PDF version\]](#) [\[Help\]](#)

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Neutral Citation Number: [2019] EWHC 2723 (Fam)
 Case No: LE16P01408

IN THE HIGH COURT OF JUSTICE FAMILY DIVISION

Royal Courts of Justice
 Strand, London, WC2A 2LL
 03/10/2019

B e f o r e :

MR JUSTICE KEEHAN

Between:

Re H (Parental Alienation) PA

Applicant

- and -

TT

1st Respondent

-and-

H

(A Child by way of 16.4 Children's Guardian)

2nd Respondent

Mr R Jones (instructed by Helen Fitzsimmons Family Law) for the Applicant
The 1st Respondent appeared in person
Ms A Musgrave (instructed by NYAS) for the 2nd Respondent

Hearing dates: 20th - 22nd August and 20th September

HTML VERSION OF JUDGMENT APPROVED

Crown Copyright ©

The Hon. Mr Justice Keehan :**Introduction**

1. I am concerned with one young person, H, who is 12 years of age. His father is the applicant, PA, who lives in City A in the South of England with members of the paternal family. His mother is TT, who lives with H in City B in the Midlands.
2. The mother appeared at this hearing as a litigant in person. H was formerly represented by a Children's Guardian of Cafcass but more recently has been represented by a case worker of National Youth Advocacy Service ('NYAS').
3. The father has made an application for a transfer of H's care from his mother to him. This application is opposed by the mother.

The Law

4. I have at the forefront of my mind that the welfare best interests of H are the court's paramount consideration: s.1(1) Children Act 1989. When determining this application, I have regard to the welfare checklist of s.1(3) of 1989 Act. At all times I have regard to the Article 6 and Article 8 rights of the child and of the parents but bear in mind that where there is a tension between the Article 8 rights of a child, on the one hand, and of the parent, on the other, the rights of the child prevail, *Yousef v The Netherlands* [2003] 1 FLR 210.
5. I was helpfully referred by counsel for the father to a number of authorities and in particular to the decision of the President of the Family Division in *Re L (A Child)* [2019] EWHC 867 (Fam). At paragraph 59 of his judgment, he said as follows:

"Having considered the authorities to which I have referred, and others, there is, in my view, a danger in placing too much emphasis on the phrase "last resort" used by Thorpe LJ and Coleridge J in Re: A. It is well established that the court cannot put a gloss on to the paramountcy principle in CA 1989, s 1. I do not read the judgments in Re: A as purporting to do that. The test is, and must always be, based on a comprehensive analysis of the child's welfare and a determination of where the welfare balance points in terms of outcome. It is important to note that the welfare provisions in CA 1989, s 1 are precisely the same provisions as those applying in public law children cases where a local authority may seek the court's authorisation to remove a child from parental care either to place them with another relative or in alternative care arrangements. Where, in private law proceedings, the choice, as here, is between care by one parent and care by another parent against whom there are no significant findings, one might anticipate that the threshold triggering a change of residence would, if anything, be lower than that justifying the permanent removal of a child from a family into foster care. Use of phrases such as "last resort" or "draconian" cannot and should not indicate a different or enhanced welfare test. What is required is for the judge to consider all the circumstances in the case that are relevant to the issue of welfare, consider those elements in the s 1(3) welfare check list which apply on the facts of the case and then, taking all those matters into account, determine which of the various options best meets the child's welfare needs."

Background

6. The parents underwent a Sikh ceremony of marriage on 30th July 2005 followed by a civil marriage ceremony on 21st August 2005. The marriage broke down and the parents separated in August 2007. There have been since then almost continuous court proceedings relating to H. This is the sixth set of private law proceedings. In 2007 to 2008, there were proceedings relating to the contact the father should have with H, during which the mother made allegations of domestic abuse against the father but no findings were made. Then in 2009 to 2010, the father made an application for leave to remove H from the jurisdiction and for holiday contact. In 2011, the mother suspended contact to the father and in the course of proceedings in that year she raised the domestic abuse allegations which had already been adjudicated upon. Then in 2013 to 2014, the mother made further allegations against the father, all of which were dismissed and contact between him and H was reinstated. The fifth set of proceedings between 2016 to 2017 related to the mother's refusal to cooperate with father for the choice of secondary school for H and the issues of contact.
7. H had been having regular contact with his father and his paternal family, which was of an exceedingly good quality, until March 2018. Since then there has been no direct contact between the father and H. On 11th May, H sent the following WhatsApp message to his father

"Dad I am going to school, can you call my mum when your in Coventry see you then bye
love you I haven't seen you in so long"

Three weeks later, on 23rd May, H sent a message to his father which, in complete contrast, read as follows:

"Sure you did, well it's always my fault you can't win with you and I give up, for all these years I've put up with you and your bullish blackmailing but I will no longer you want to see me? Well you can see me in court I'm not coming just to get drilled by you and your family and ganged up on just because you were the one being rude to me I did what I had to do if I wanted to pass my sats rather than you moaning at me constantly when I come down you moan at me all afternoon until I sleep for anything but when you're an idiot to me it doesn't matter you threaten me 'smile for court/take my xbox time' you tell me to force my mum to do things and be rude to her and I was ill but you thought I was lying my mum taught me never to lie I haven't spoke you to you to concentrate well if my mum was amputated like you said then I will never talk to you again for what you said if I told my mum what you're saying she would protect me from you and she would be angry at you"

This unfortunate and unhappy position was maintained until recent months when H, once again, began sending WhatsApp messages and text messages to his father. The mother claims not to know what could have happened in that three-week period to so dramatically alter H's view of his father; she said she had not questioned him.

8. On 5th May the mother was involved in a minor accident. On 12th May the father sent what he now accepts to be a wholly inappropriate and intemperate email to the mother. It reads as follows:

"Following on from your bullshit lies yesterday, and in case I can't get your backside in court before hand, you better get H to Cherwell on Friday 25th May. You screw that up and I promise you I will do everything I can to get residency I don't give a crap if you have had your legs and arms amputated you have a legal responsibility to get H to Cherwell. Your in last chance saloon, so think about the judges words to you"

The fact that H refers to amputation in his message of 23rd May, can only mean the mother told H about the father's above email or she permitted him to read it.

Evidence

9. Dr Braier is a renowned expert in the field of parental alienation. Her report in these proceedings is dated 28th March 2019 and she prepared an addendum report dated 28th June 2019. In her substantive report she said in respect of the father as follows:

"PA is outgoing and gregarious, skilled in social interactions, socially buoyant, engaging others with infectious enthusiasm, attracting them into his causes, optimistic that others will view him favourably and treat him well.

He builds strong relationships between family and friends, expending effort to achieve mutual warmth, reciprocal goodwill, congeniality and good cheer, strengthening his own self-esteem and sense of worthiness in the process. A concern for his own welfare may at times come at the expense of others, though PA feels especially good about himself when he has been helpful to others, particularly when he is recognised or admired for his input."

"Taking his responsibilities seriously, if progress is slowed, blocked or complicated, PA's high investment can precipitate intense frustration, and where criticism is directed his way, reflexive hostility rather than openness to self-evaluation may follow. That said, his recent experiences with H have led to a much greater willingness to reflect."

"Under duress, he can insist on getting his way; a more turbulent and aggressive personality then emerging, and it is hard to decide how much of this reflects a temporary state rather than long term trait. At present, PA is fragile and has been easily provoked into retaliatory anger, with an undercurrent of defensive vigilance and hostility, ready to deprecate those challenging him."

"PA's frustration and lack of control over his relationship with H then, has probably intensified any prior temperamental vulnerability, with the aggression noted in the documents a desperate attempt to control and regain power. On the matter of its degree, however, mother reported threatening messages, but the police disclosure document did not support this, reporting 'aggressive, but not threatening', even though it did not 'excuse the aggressive nature' in expressing his frustration."

"Until now, PA has been so busy fire-fighting, that he has struggled to acknowledge his own end of responsibility for any personal and family difficulties. However, his despair at H's predicament now looking more set on a trajectory of loss of the paternal relationship, has triggered more reflection, remorse, sadness, and a wish to re-establish his connection without interference."

10. Later in her report Dr Braier gave the following opinions in relation to the mother:

"Having described PA's childhood in wholly negative terms, TT described her own family history in idealised superlatives 'absolutely great, very loving...a team... my parents could not live a day without each other... inspirational to my upbringing.' She had the 'latest dresses and toys...always dressed me up to look so pretty'. She said 'I was my father's favourite child out of the siblings' and her mother was 'over the moon about my achievements'. There were 'never any disagreements, fall outs or dull moments.' She and her siblings always played together with many toys, some her siblings 'studious...head buried in books'."

"I wondered, in light of this beautiful family profile, why she was not living in the maternal family home where all the rest of her family are, benefitting from emotional and practical support and why she was the only child who would not inherit any part of the family home. She assured me that this was culturally appropriate and that she had matured into wanting her own independent space with H.

I confronted TT on how this idyllic family profile did not fit with the documented violent incident where her brother pushed their mother over, breaking her glasses, then punching TT (who somehow, through no fault of her own became involved) some 10-15 times. She said that at 'all other times', he was good, and they were close, and that 'when someone's a diabetic you gotta let them have their breakfast' and that in the case of her mum's part 'my mum has a bit of blood pressure'. Of her own injuries in the incident, she said 'I bruise very easily Dr Braier'."

"TT begins from a compensated position of poor self-worth, with self-doubt and jealousy, her interaction with others framed within a constricted mind set. She has an obsessive concern that PA (and particularly his mother who deems influences him unduly) are malevolent in nature. Beginning from a position of feeling put down by others, with a compensating need to prove her worth, her sense of right/wrong and good/evil lead her to view the paternal family all things bad. There is splitting, with idealising and denigrating; a problem of integrating angry feelings with love"

"Explanations of TT sustaining her views of the father and transferring them onto H may indicate a wider problem of reflective function. Mentalising is the process we use to understand our own and others' mental states, intentions, feelings, thoughts, desires and beliefs. TT does not always make reasonable links between mental states and behaviour, creating realities reflecting what she wishes or fears, rather than what others are likely to intend."

"She experiences herself as a victim, badly treated by others, rising above it in a saintly manner in her mind, but not in practice. TT constructs narratives based on her feelings, projecting her concerns and convictions out on the world, so that others' behaviours fit her own preconceived ideas and concerns.

There is difficulty shifting that perspective in light of any new evidence. TT's reflective function can be distorted, unintegrated and almost bizarre at times, particularly when applied to the paternal family. Her narratives are designed to reveal herself in the best possible light at the expense of any plausible understanding of the relationships around her, to the point where fantasy and ideals may impact on her grasp on reality at times.

People with such difficulty mentalizing may assume that what exists in their mind reflects what actually exists in the world, so their internal ruminations can prevail regardless. With reduced ability to take the perspective of others, there is greater difficulty for TT in making coherent sense of the emotional world in a manner which can act almost like a sensory deficit.

TT disavows any responsibility at all for what is happening between H and his father, suggesting it is entirely between them, with no personal role at all. What makes this bizarre is her failure to grasp that professionals will all have access to a documented history pointing to her own historical behaviour around contact as a more plausible explanation. This is the case, notwithstanding PA's own lack of sensitivity and loss of child-focus with argumentative/aggressive sibling-like behaviour with H in attempting to resolve matters."

11. Dr Braier's assessment of H contained the following observations and opinions:

"H's current expressed wishes may reflect mother's difficulty in providing H with an accurate mirror of his own feelings as a child. She would have been exploring and redefining H's experiences in terms of her own deeper concerns and needs, gradually changing his perception of what happens to him with his father (and possibly others) to fit her own view of herself as protector, so that she can continue to provide the special nurturing she feels H needs to feel safe and cared for.

This is likely to have made it harder for H to make coherent sense of his own world and relationships. His world is now also populated by a hero and villain view of his parents, and is likely to generalise into wider black and white thinking. There is a risk of H developing rigid schemas precluding him from making good enough sense of his social and emotional world to negotiate his relationships successfully as he matures.

TT is unable to use her professed principles of love, wisdom and tolerance, reportedly learned from her family, to make sense of others' intentions. There has been no forgiveness or tolerance for any of the father's weaknesses to help H sustain a loving connection when things go wrong."

"Expressively defensive, TT's personality contains paranoid and narcissistic features. She is vigilantly guarded and alert to warding off expected derogation and malice and possible deception. A very traumatic background of being badly burned and victimised by her peers, whilst being cared for and made to feel special by her father, has led her to compensate with an undisciplined imagination of immature, self-glorifying fantasies, taking liberties with facts, create an idealised fantasy childhood, with grandiose ideas which can be irrational and flimsy, constructed to redeem lost pride, substituting for the painful realities she has endured"

"At her worst, TT is cognitively suspicious, construing innocuous events as signifying malice, with a tendency to magnify tangential or minor difficulties into proof of treachery or malevolence, especially regarding fidelity or trustworthiness. She is prone to feeling personally deprecated by innocuous actions and events arising from her own underlying discontented self-image. She may exaggerate her own misery by recalling past injustices and anticipating future disappointments, seeing herself as a misunderstood victim, unappreciated and demeaned by others.

Projection dynamics however, mean that TT may be blind to her own unattractive behaviours and characteristics, whilst over alert and hypercritical of similar features in others. She actively disowns her undesirable personal traits and motives, attributing them to others, so that by means of this reversal, she can then justifiably act out her own anger, feeling vindicated."

"H's presentation suggests that he is triangulated within his parents' conflictual relationship. His angry rejection of his father serves a function for his mother within the parental separation. H's own emotional needs, including his right to have a relationship with his father, is being ignored by TT in order to serve her conflict with PA.

H is currently prioritising his mother's needs over his own, and no longer sees his relationship with his father as bringing anything but pain and complication into his life. Such children can become unduly anxious, going on to develop a need to compulsively rescue those who seem weak or needy, with a host of somatising complaints themselves."

"H's responses from the Child Attachment Interview, perception of parents scale and the Bene Anthony Family Relations test were all consistent with those typically seen in alienated children, with exclusively negative messages to his father and paternal family (no outgoing or incoming positive items at all, 9 negative outgoing, 5 negative incoming, 3 outgoing negatives to his grandmother, 1 incoming negative) and almost exclusively positive incoming and outgoing items towards his mother.

This lack of ambivalence makes H's presentation more likely to be alienation than estrangement resulting from his father's behaviour. His response is extreme and excessive, a presentation not seen in children whose parents have been neglectful or abusive."

"When I told TT that H was presenting with the kind of extreme views typical of an alienated rather than abused child, and asked her to reflect on how this can be a response to high conflict when a child tries to make their environment feel safe, TT could not accept that I could have formed that view from H's own presentation.

She commented that PA had 'got to you too, like Billie', refusing to give headroom to the possibility of an environment in which she herself had, inadvertently or otherwise, been fuelling the very allegations she contended must be true, simply because H said them."

"TT feels proud and takes credit for many of H's achievements, but partly does so to display the father by contrast. She presents as distraught at the prospect of anything happening to her, lest H be left without a carer. She positions father as unreliable, neglectful, aggressive/hot tempered, a disorderly alcoholic, seemingly incapable of caring for him at all and requiring therapeutic input. However, she also spoke about father not being there for H, fearing he is suicidal and unable to cope with life because of his health. I could not find evidence of a mental health problem of this extreme nature, neither in my assessment, nor in PA's medical notes."

"There is lack of insight into any possibility that her beliefs could be self-serving or even have a psychological context, with no room for disconfirmation. TT presents with as if the consequences of a false negative (deciding there is no aggression/alcoholism, when there is) is much more dangerous than a possible false positive (deciding there is aggression and alcoholism, when there is not), ignoring the potential harm of her own actions and beliefs in colluding or co-creating these allegations and depriving H of his father, despite the Fact Finding saying they are unsubstantiated."

12. On the issue of the way forward to enable H to have a relationship with both of his parents Dr Braier advised that:

"Mother's opinions about the father have been transferring to H gradually over time, and are now complete, with his independent rejection of contact. Mother herself would say that this is the result of H seeing 'who his father really is', but H's presentation suggests it is more likely to reflect alienation. Mother's views of the father are entrenched, and the prognosis for any shift in that view, if H remains with his mother, does not look promising."

"Unfortunately, therapeutic intervention aimed at a restoring H's relationship with his father whilst in the care of his mother is ill-advised, not only in light of the research evidence, but the failure of any previous threat of change of residence to change the course of this case or mum's stance, with the consequence that H now has no relationship with his father.

Even though there may be transient distress, particularly as H is now settled in his secondary school, with friends, this needs to be weighed against the need for removal from his mum, to protect him from further harm, in the form of the consequences of complete loss of his dad."

"H is currently prioritizing his mother's needs over his own and no longer sees his relationship with his father as bringing anything but pain and complication into his life. Development of such rigid schemas may, among other difficulties preclude him from making good enough sense of his social and emotional world to be able to negotiate his relationships successfully as he matures."

"I am less optimistic about TT's capacity to cease hostility, even with support, as she is more deeply worried about PA and the risks she deems him to pose to H, seeing herself as an important (and sole) protective factor. Her thoughts on this are far less open to challenge, and it is therefore hard to see how TT will not continue to act to obstruct the relationship with the father, all the while believing she is doing so protectively and in H's best interests.

TT's conviction about the father's problems make continued allegations by H more likely, as a result of which, the child is now alienated from his father. She would say that H has finally seen who the father is as he has matured and professionals have not so far managed to reassure her on these concerns over the years."

"H has and is likely to continue suffering significant social harm with the current arrangements, exposed to conflict from both parents because of his mother's excessive unwarranted concerns, which have led to problems with contact. Mother is less responsive to H's emotional needs than she believes, blurring boundaries between the child's needs and her own, operating within a constricted, inflexible frame, where she is uniquely placed to love and protect H, seeing him as particularly vulnerable with his 'unsafe' father as a result of his special needs.

Her views and actions, as well as the father's unhelpful and intense attempts to convince H of 'the truth', has resulted in dysfunctional attachment strategies in H of anxious conformity, psychosomatic symptoms, triangulation within his parents' conflictual relationship and rigid schemas. A child's alienation from one of his parents, in the manner which has now finally happened to H, is associated with a higher risk of long term problems of poor mental health and relationships."

"Mother has implied that his father is unsafe, exposing H to inappropriate parental conflict, under the guise of the same protection, not distinguishing between her own emotional needs to be the only parent H needs and his real emotional needs for his father. TT was bullied as a child and as an adult, felt demeaned by H's father and family. As such, however, she has unwittingly encouraged H to see himself as a bullied victim of his father, so as to protect him. I do know that she loves H deeply and is not consciously prioritising her own needs over those of her child, so that she may find it hard to recognise the harm she is creating, and may feel offended and upset by what I am saying."

"As I have already said, H's presentation suggests that he is triangulated within his parents' conflictual relationship. H's own emotional needs, including his right to have a relationship with his father, is being sacrificed in his angry rejection of his father, which serves a loving function for his mother within the parental separation."

"H completely left his father out of his description of his family, as if he did not exist, identifying many negative experiences, minimizing, dismissing or making empty any positive experiences he had with his father in the Child Attachment Interview. He also produced exclusively negative views of his father on the Perception of Parents' Scales and Bene Anthony Family Relations Test."

"Cases like this require practitioners with considerable experience and specialised training in the area of implacable hostility and alienation, within the legal framework, with judicial oversight, with restoration of H's relationship with his father as the primary consideration, to protect him from further harm.

There are very few practitioners able to provide this kind of work, which requires residential therapy with H and his father in the family paternal home, in the first instance, over at least 4 days and 4 nights, with a 12 week follow up of therapy sessions. I have provided two possible sources."

"I have no evidence from my assessment that this mother is well placed to use any psychological work which would help change H's current perceptions or predicament. She genuinely feels that H has arrived at a place of protecting himself from problems in his father which are serious enough to warrant him keeping away. Any motivation to participate therefore needs to be externally driven by the Court."

"The probability of TT being a genuinely active or willing participant in a process of reunification, where she can accept her own contribution, even inadvertent, is currently very low. The therapist will need to evaluate the extent to which she can is able to manage in practice. I hope she can because ultimately, it is not going to be helpful for H to swap in a heroes and villains scenario and he needs to have both his mum and his dad in his life."

"It is very likely now that if H remains with his mother, he will not enjoy a relationship with his father, so that a transfer of residence is, sadly, the only feasible route to re-unification at this stage."

13. In her oral evidence, she said that H may on the surface appear to be fine emotionally, but he is not. If the court were to contemplate transferring residence from the mother to the father there were risks to H; he may run away and he may not settle in his father's care if it was not properly supported. Dr Braier advised that prior to contemplating a transfer of residence the court had to be sure that the father was not an abusive parent. The father has not been blameless over the course of the years and has, from time to time, acted inappropriately (e.g. the email of 25th May, see above). But, as Dr Braier commented, he has expressed remorse and I consider it to be genuine. The mother's level of conviction about the rightness of her position is not open to challenge or to outside evidence. She is firmly entrenched in her view and is most unlikely to change. Parental alienation is very harmful to a child. It skews the child's ability to form any and all sorts of relationships and is not limited to the failed relationship with the other parent. In this case, there is now no other option but to transfer residence of H to his father in the welfare best interests of this child. If, short of a transfer, an attempt was made to re-establish contact H, whilst remaining in his mother's care, is likely to become even more entrenched against his father.
14. I then heard evidence of the author of a s37 report by the social worker J, which is dated 9th August 2019. This social worker had no previous experience of cases of parental alienation, she had made a passing referred to Dr Braier's comprehensive report. In my view this report of J is woefully inadequate. It is critical of the father but not of the mother and had no regard to Dr Braier's opinion and conclusions. In the premises I have taken no account of this report or of the evidence of this witness.
15. I then heard evidence from D the NYAS caseworker. In her report to the court she made only a passing reference to Dr Braier's report. For the purposes of compiling her report she spoke once to each of the parents briefly on the telephone. There is no reference in the report to the author having a lack of time to complete her enquiries or to make a recommendation. Rather there is a clear and unequivocal recommendation that H should live with his mother and have no contact whatsoever with his father. In her report, she only considered the negative issues about the father and set out the mother's criticisms of him. There is no consideration at all of the adverse role of the mother in H's life nor did she give any consideration as to the extent, if at all, to which the mother had alienated H against his father. She accepted H's expressed wishes and feelings at face value and had no consideration to Dr Braier's opinions.
16. In her oral evidence, she completed a volte face, in that she made no recommendation to the court about with whom H should live or the contact he should have with the non-resident parent. Despite being pressed she could give no explanation for:
 - i) the failure in her report to raise the issue of a lack of time to complete her enquiries or to write the report; or
 - ii) for the change in the recommendations now made.

D accepted she had solely focused on the father's role and had not addressed at all the mother's role. In the light of Dr Braier's reports, this is a startling and serious omission. When asked why she had not instructed counsel at the beginning of this hearing to request an adjournment of this final hearing, she could not give a cogent answer.
17. These serious omissions and deficits in her report undermine its reliability.

18. The father had enjoyed a very good relationship with H up until March of 2018. H also enjoyed a close relationship with his paternal grandparents and paternal relatives. I am satisfied these were mutually loving, fulfilling and beneficial relationships.
19. The father lives with his parents and his siblings at the family home in City A in the South of England. He told me and I accept that he has planning permission for a loft conversion to provide accommodation for H. He has identified a private school, E, which has space to accommodate H and is just a 10-minute walk from the father's home.
20. The father fully supported the opinions, conclusions and approach of Dr Braier. He readily accepted that he had made errors in the past and had drawn H into the conflict between the parents. He would, for example, occasionally copy H into emails he sent to the mother. He has, however, reflected upon his past behaviours and is ready to move forward. H is, he said, his first priority. He admitted that his frustration at the lack of contact or the lack of relationship with his son caused him at times to act inappropriately. Nevertheless, he is convinced that H still has a strong relationship with him and still loves him. The father told me he will ensure H is happy. Further, he will ensure that if residence of H is transferred to him, that H maintains a positive relationship with his mother and he actively supports direct contact between her and H. He is alive to the potential adverse consequences to H if the court orders transfer of residence to him. The father is committed to undertake the therapy and work advised by Dr Braier.
21. At the beginning of her evidence the mother told me that she had not supported contact in the past as she should have done and that she did not wish to focus in her evidence on historical matters. She told me that she accepted that she was partially to blame for the breakdown of contact. She opposed a transfer of residence to the father. She asserted H needed more time to re-establish his relationship with his father. Further, she asserted she had not influenced H or questioned him. She could not, however, provide any explanation as to how H had become aware of the contents of the father's email on 25th May.
22. In the course of cross examination, the best the mother could do was to say that she could possibly have done things better. When being further questioned about the degree to which she accepted fault for the breakdown of the relationship between H and his father, I note the following matters:
 - i) she sought to sidestep the question every time counsel for the father put the issue of fault to her;
 - ii) on each occasion whilst she said that she accepted some blame she then proceeded to give a lengthy catalogue of the alleged failings of the father and of his family; and
 - iii) finally, she said to the court "I do not know what answers you want from me" - to which the simple answer is I expected her to tell me the truth.
23. She admitted telling Dr Braier that the father had "got to her" meaning that the father had influenced Dr Braier to support him. She alleged Dr Braier had not accurately recorded what H had said to her in her reports, but she could give no explanation why Dr Braier was not challenged on these issues when she gave evidence. She concluded this part of her evidence by saying "H does not even want me to mention the father to him. It's nothing to do with me"
24. The following morning, the mother requested the opportunity to give further evidence. I accepted the request. She apologised to the court for the way in which she had answered questions the day before. She said she was tired. She claimed to have reflected on her evidence. She claimed she could now support the re-establishment of a relationship between H and the father and she gave examples of positive ways to move matters forward. She spoke of supporting co-parenting between herself and the father. She was however, I regret to find, wholly passive aggressive in giving this evidence because, as in her evidence the day before, she could not and did not resist every opportunity to castigate and blame the father for the breakdown of contact. Her evidence was largely taken up with a veritable diatribe against the father.

Analysis

25. I have no hesitation in accepting the unchallenged opinion and recommendations of Dr Braier. She is one of the country's foremost experts in the field of parental alienation. For the reason given above, I have had no regard to the report of J. The NYAS caseworker does not now make any recommendation to the court, she asserted had had insufficient time to undertake full and proper enquiries but nevertheless acknowledged and accepted the opinions of Dr Braier.
26. I formed a very positive view of the father, he clearly loves his son very deeply and is fully committed to him. He comes from and lives with his loving and supportive family with whom H had a good and close relationship. It is clear to me, despite the difficulties over the years prior to March 2018, H had a warm, good and mutually beneficial relationship with his father. I can discern no reason for the complete breakdown and collapse of their relationship last year other than the malign influence and role of the mother.
27. I did not form a positive view of the mother. She repeatedly lied in her evidence. By way of example only, I refer to the following three matters:
- i) her denial of speaking with H about the father's email of 25th May is false. How else would H have known the contents of it? The father did not copy him in to that email;
 - ii) the mother's assertion that she described her concerns about the state of the father's mental health in the past tense and not as appeared in Dr Braier's report in the present tense. I am satisfied that Dr Braier would not have made such an error without acknowledging the same; and
 - iii) her oft repeated claim that she accepted some of the blame in the breakdown of contact was undermined by the contrary accounts which dominated her evidence that the father was entirely to blame.
28. The mother verbally attacked the father's character and his role in H's life and that of his family, at every opportunity throughout the court hearing whether in cross examination of the father or other witnesses and in her own evidence and submissions. It is plain to me, as it was to Dr Braier, that in reality she sees no benefit to H having a relationship with his father. She will not or cannot accept any other person's account of past events or actions which do not accord with her own views and perceptions.
29. She had plainly alienated H against his father. There is no other cogent explanation for the breakdown in contact in March 2018. Dr Braier gave clear and compelling reasons and opinions for reaching this unassailable conclusion. I accept Dr Braier's evidence that, as a direct consequence of this, H is and will continue to suffer emotional and social harm. If this situation is permitted to continue H will suffer adverse consequences throughout the whole of his life. It will impede his ability to form meaningful and positive relationships now and in the future. It may cause him to suffer depression in later life.
30. I also accept the opinion of Dr Braier that if an attempt were to be made to restore direct contact between H and his father, whilst H remained in the care of his mother, it is likely that H would become more entrenched in his views against the father. Moreover, I am satisfied that any such attempt to re-start contact on this basis would fail.
31. I am wholly satisfied that, on the totality of the evidence, the only means by which H can have a full relationship with both of his parents would be to make a Child Arrangements Order that H live with his father. Such a step is not without the risk of causing H trauma and emotional harm. In coming to this conclusion, I take into account the following matters:
- i) he has lived all of his life to date with his mother;
 - ii) he is settled in school and has an established group of friends;
 - iii) he has many interests and is a member of a Taekwondo club;

- iv) he has lived the majority of his life in City B in the Midlands albeit he has visited and stayed with his father in City A in the South of England;
- v) he will have to accept his fathers and paternal family's home as his new home;
- vi) he will have to settle into a new school part way through a new school term;
- vii) he will have to make new friends; and
- viii) he will have to familiarise himself with his new environment and locale in City A in the South of England.

32. I do not underestimate the trauma and stress H will endure if a transfer of residence is ordered. I am however entirely satisfied and find that:
- i) H would be fully supported by his father and the paternal family;
 - ii) H will have the support and guidance of an independent expert in this field;
 - iii) it is most likely that his former close relationship with his father will be restored in very short order and;
 - iv) any trauma and or stress is likely to be of short duration only and will resolve when he settles into his father's care.

33. There is a risk he will not settle or that he may abscond from his father's home. I consider that, with all I know of H, this risk is small. When I balance the potential adverse consequences of a transfer of residence for H against the short and long-term benefits of having a loving and beneficial relationship with both of his parents, I am satisfied that the balance falls decisively in H's welfare best interests in ordering that H should now live with his father

34. It is the only realistic option that ensures H's welfare best interests are met. I am satisfied that this order is a necessary and proportionate response to the harmful and damaging situation that H has found himself in recent years.

Conclusions

35. I have come to the following clear conclusions:

- i) the mother has alienated H from this father;
- ii) she does not support the father having a role in H's life;
- iii) the absence of the father from H's life has, is and will cause H emotional and social harm;
- iv) if H remained in his mother's care, the prospects of H having a meaningful relationship with his father are, at best, poor; and
- v) the only means by which H can enjoy a relationship with both of his parents is to transfer residence to the father; nothing else will do in the welfare best interests of H.

36. I have recognised and taken into account the potential traumas and harm H may suffer if moved to live with his father. I am satisfied that this loving and devoted father, with the assistance of the independent expert's support, to which he is committed to co-operate, will ensure that the transfer is successful and that H will settle in his father's care. The transition plan placed before the court by the independent social worker instructed is comprehensive and will support H transferring and settling in his father's care.

37. I am in no doubt that the transfer of H's residence from his mother's to his father's care is in his best interests. I accept the advice and opinion of Dr Braier that during this transition period it would be contrary to H's welfare best interests to have any direct contact with his mother for a period of three months.
38. I shall make a Child Arrangements Order that H shall live with his father and will spend time with his mother subject to the three-month embargo set out above. There may be indirect contact as advised by the independent social worker.
39. At the conclusion of the submissions on 20th September, I announced my decision but reserved judgment. In light of my decision the Independent Social Worker was to collect H from school that afternoon and transport him down to his father's home in City A in the South of England. The paternal family had agreed to leave the family home for a short period to enable H to have time and space to settle into his father's care. I have been informed that that process proceeded without incident and the transition plan to date has been effective.

BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

URL: <http://www.bailii.org/ew/cases/EWHC/Fam/2019/2723.html>