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IN THE FAMILY COURT AT MANCHESTER

Manchester Civil And Family Justice Centre
1 Bridge Street West
Manchester M60 9DJ

B

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C

Before:

HIS HONOUR JUDGE MARK HAIGH

D

Between:

FATHER

Applicant

- and -

(1) MOTHER

Respondents

(2) THE CHILD

(via her Children's Guardian)

E

F

MS D SHIELD appeared for the **Applicant father**
THE RESPONDENT MOTHER appeared **In Person** (with a **McKenzie friend**)
MS B WILSON appeared for the **Children's Guardian**

PROCEEDINGS

G

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A

JUDGE HAIGH: Have a seat, make yourselves comfortable. Okay, good morning everyone.

MULTIPLE VOICES: Good morning.

B

JUDGE HAIGH: We have got two issues, procedural issues, to deal with before we start.

One I think is relatively uncontroversial, one may not be, I do not know, it is up to you.

The first is the application for the McKenzie friend. Is that opposed by anyone?

MS SHIELD: Your Honour, no, it is not on behalf of [the father]. I understand that

C

[the mother] has been assisted by a McKenzie friend for a considerable number of

hearings, and [the father] has no objection to her participating, obviously in accordance with the McKenzie friend guidelines.

JUDGE HAIGH: Yes, well, we will come to that, because it is only half of the application.

D

MS SHIELD: I see.

MS WILSON: Your Honour, no objection on behalf of the Guardian. I have seen the written

application for a McKenzie friend this morning. That is no criticism, I have just seen it this morning, your Honour. I am conscious that, if it is Ms Baker, Ms Baker is an unregistered barrister, and of course that comes with separate guidance as well, as

E

opposed to just the McKenzie friend guidance, but there is no objection from the Guardian for Ms Baker to assist the mother.

MS SHIELD: Your Honour, I should say that I have not seen any written application, but I

F

do not criticise [the mother], because I do not think she would have known until very recently that --

JUDGE HAIGH: Are you direct access?

MS SHIELD: I am direct access.

G

JUDGE HAIGH: Right, I see, okay.

[MOTHER]: I only knew when we came into court.

JUDGE HAIGH: Yes, okay. Okay, so, fine, you are the McKenzie friend.

MCKENZIE FRIEND: Thank you, your Honour.

H

JUDGE HAIGH: Now, there is a further application that is relevant to the McKenzie friend

issue, and that is mother is wanting the McKenzie friend to have permission to ask questions on her behalf, so in other words right of representation; is that right? No? Tell

me if I am wrong. (Conferring sotto voce within court). Have I understood that right?

A I am just going by mother's email?

[MOTHER]: That is right, isn't it?

MCKENZIE FRIEND: Yes, yes.

[MOTHER]: That is right.

B JUDGE HAIGH: It is right? Yes, okay. Views on that?

MS SHIELD: Your Honour, I have just obviously heard this application, so I would appreciate some moments with my client outside of court to discuss it.

JUDGE HAIGH: Okay, that is all right. And you can all do it on the third issue, if you want.

C We have had a -- just let me pull it up. In fairness it came at 8.30 this morning, but it came onto my machine at about 10.01, which is -- just let me find it ... (pause). Here we are: An application by Suzanne Martin, who is a freelance journalist, to participate and listen to the hearing, and have access to the bundle. What is mother's position on that?

D [MOTHER]: Erm ...

JUDGE HAIGH: Is it coming as a surprise to mother?

[MOTHER]: Yes, that's -- yes, I know that they can't report on identities of the child, can they?

E JUDGE HAIGH: Are you surprised by that application being made?

[MOTHER]: Yes, I didn't know there was ... Yes, but I know that there's --

JUDGE HAIGH: This is not a journalist that you know or --

[MOTHER]: No.

F JUDGE HAIGH: Okay.

[MOTHER]: But I know that there's been changes in the law and so it's not a complete surprise, because I know it does happen now. So, no, I've no objection.

JUDGE HAIGH: Right. Father?

G MS SHIELD: Your Honour, this --

JUDGE HAIGH: I am going to ask the same question --

MS SHIELD: Yes, of course.

JUDGE HAIGH: -- because I would like him to answer: Surprise to him?

H MS SHIELD: Very surprised --

JUDGE HAIGH: Okay, two --

MS SHIELD: -- and concern.

JUDGE HAIGH: -- surprises.

MS SHIELD: Yes, I should say that --

A JUDGE HAIGH: It is probably a coincidence.

MS SHIELD: -- I have experience of Ms Martin from other cases.

JUDGE HAIGH: Yes.

MS SHIELD: I know that she is a journalist who specialises in family matters --

B JUDGE HAIGH: Yes.

MS SHIELD: -- and is writing articles about the family court system --

JUDGE HAIGH: Yes.

MS SHIELD: -- so I have encountered previous applications by her.

C JUDGE HAIGH: Yes.

MS SHIELD: Your Honour, I should confirm that [the father] does object to the journalist observing the hearing. He fully understands that proceedings are anonymised, but his first concern would be that at some point in the future [the child] may read an article or an

D item of news in which [the child] recognises [themselves] --

JUDGE HAIGH: Or my judgment?

MS SHIELD: Indeed. So, he would be very concerned for [the child] that these very private matters are going to be potentially in the public domain.

E JUDGE HAIGH: So, mother supports, father objects. Based on privacy for the child. Guardian's view? Was she even aware of this?

MS WILSON: No.

JUDGE HAIGH: Probably not.

F MS WILSON: Your Honour, no, the Guardian was not --

JUDGE HAIGH: Does not matter --

MS WILSON: -- aware of this.

JUDGE HAIGH: -- do you want some time?

G MS WILSON: I would like some time please --

JUDGE HAIGH: That is fine.

MS WILSON: -- if I may? I can address you on the second matter that you raised as well, your Honour, about --

H JUDGE HAIGH: Yes.

MS WILSON: -- essentially what would be a right of audience.

JUDGE HAIGH: Yes.

A MS WILSON: And that is why perhaps I had not necessarily anticipated the mother's application but mentioned the guidance for unregistered barristers, so I will need to take some very brief instructions from my client on that matter.

JUDGE HAIGH: Okay, that is fine. All right --

MS SHIELD: Your Honour, there are some --

B JUDGE HAIGH: -- just, so you both know: What she says is: "This initial request is in anticipation of making an application to lift the reporting restrictions". So, there you are, (inaudible). Think about it carefully.

If you want to know my view on the transparency project, it is not supportive.

C I have always felt these cases are deeply private, and my judgments are there really for the parents, to help them, to help the families, they are not for public consumption or to allow press and journalists to further their journalistic ambitions. But there is always an exception. And I am as close to it as I have ever been.

D So, you think about it carefully. When do you want to come back in? Do you want to start at 11?

MS SHIELD: Your Honour, there are some housekeeping matters, if I can raise them now?

JUDGE HAIGH: Yes, fine.

E MS SHIELD: I hope they will not take the court's time up too much. The first is: In relation to the bundle, which the court has --

JUDGE HAIGH: Yes.

MS SHIELD: -- it was prepared by [the child]'s solicitor, but unfortunately it appears that the

F father's final statement, and that of his mother, has been omitted. The statement --

JUDGE HAIGH: When was that filed? Because I could not even find it on the file.

MS SHIELD: Yes, the email that I have from [the father] includes the court address, and it was sent on 17 May at 16.01, and there was --

G JUDGE HAIGH: Okay, and that was his statement and that of his mother?

MS SHIELD: Yes, and it was sent to --

JUDGE HAIGH: Right.

MS SHIELD: -- Butcher & Barlow and to Ms Lomas --

H JUDGE HAIGH: Okay.

MS SHIELD: -- and to --

JUDGE HAIGH: Has mum --

MS SHIELD: -- [Mother].

JUDGE HAIGH: -- and the child seen it or not?

A MS WILSON: Your Honour, I am proceeding out of turn, although I am sat in the middle, so
it is a slight oddity for now. Your Honour, I have not seen the father's fourth statement
until this morning. The Guardian though has, my client has seen it, I have not, and I can
only apologise it is not included in the bundle, but I did not know there was anything to
B include until I got to court this morning.

So, I can only apologise on behalf of those who instruct me. They did email -- I
know that my solicitor emailed the bundle to both parties last week, and asked for
confirmation whether anything was missing, and I had not received anything further
C from my solicitor, your Honour, so I apologise for that --

JUDGE HAIGH: Well, could --

MS WILSON: -- but I have now --

JUDGE HAIGH: Yes.

D MS WILSON: -- seen it.

JUDGE HAIGH: Okay. Has mum seen them?

[MOTHER]: Yes, I didn't know -- I think I saw the statement if they were the ones sent
around the time of the last hearing.

E JUDGE HAIGH: Yes, later --

[MOTHER]: I didn't --

JUDGE HAIGH: -- after, yes.

[MOTHER]: Yes, I think I've seen them.

F JUDGE HAIGH: But they were not in the bundle or the index --

[MOTHER]: I didn't notice --

JUDGE HAIGH: -- to the bundle that you will have seen, will you?

[MOTHER]: Well ...

G MS SHIELD: Yes, your Honour, like Ms Wilson, I looked through the index last week, but I
of course did not look through the bundle.

JUDGE HAIGH: Yes.

MS SHIELD: So, it was only over the weekend that I realised that what looks like --

H JUDGE HAIGH: Yes.

MS SHIELD: -- the father's final statement is in fact --

JUDGE HAIGH: Yes.

MS SHIELD: -- a three-page short statement and --

JUDGE HAIGH: Well, could --

A MS SHIELD: Yes.

JUDGE HAIGH: Look, you can all, if you disagree about this, come back and disagree about it, and I will deal with it as procedurally as appropriate to deal with it, but if the reality is this: That the statement was filed, as mother's was, in compliance with my order, but

B somewhere down the line not uploaded onto CaseFinder and somehow has not found itself in the bundle through some oversight or error, that is fine. As long as it is compliant with my order, let's not get excited about it, just send me the statements.

C If that is not right, if the statement was not filed on time, it is an application for relief from sanctions, so let's deal with it properly in that way.

D But I do not want you to get sidetracked by things that are just simple errors where there has been procedural compliance with the order, so get over that quickly and, if there is not a problem on it, just send me the statements so that I can have a quick read of them, because I have not even seen them yet, and we are here --

MS SHIELD: Yes.

JUDGE HAIGH: -- on Day One.

E MS SHIELD: Yes. Your Honour, there are a number of further matters: The second matter is that of a number of video clips which the father circulated last week, and asked for an agreement to be put before the court. I do seek the court's permission for the father to

F rely on those video clips. I understand that there is a Dropbox file which has been sent to the court. The clips are all very short, your Honour, they will not take the court's time up very much at all, but they do show the father with [child], they show [child] reacting to the father during a range of contact sessions --

JUDGE HAIGH: Okay, okay --

MS SHIELD: -- and so for that reason I would want to rely on them.

G JUDGE HAIGH: Okay.

MS SHIELD: I do not know whether or not that application is opposed.

H JUDGE HAIGH: Do you want time to think about that? Do you have an answer now? Or do you want to think about that at the same time as you are thinking about everything else?

[MOTHER]: We don't have any objection.

JUDGE HAIGH: No, okay, so --

MS SHIELD: I am grateful.

JUDGE HAIGH: -- mum agrees.

A MS SHIELD: Very grateful. Your Honour --

JUDGE HAIGH: Guardian okay with it?

MS WILSON: There is no objection from the Guardian.

MS SHIELD: I am grateful. Your Honour --

B JUDGE HAIGH: Right.

MS SHIELD: -- thirdly then, [the father] circulated a letter last week, which is from
[redacted] County Council, it is a one-page letter, and he has approached them
asking for what kind of help and support they could offer him in the event that the court
C granted his application. So, again I understand that has been seen by the other parties,
and I would ask for the court's permission to rely upon that document.

JUDGE HAIGH: Everyone seen it or not --

MS WILSON: I have seen it --

D [MOTHER]: No, I haven't --

MS WILSON: -- it is dated --

JUDGE HAIGH: Mum is shaking her head. Could you make sure --

MS SHIELD: Yes, of course.

E JUDGE HAIGH: -- somehow that it is sent to mum so that she can look at it? Have you
received it or not?

MS WILSON: I have seen a letter dated 22 May 2023, if that is the letter?

MS SHIELD: Yes.

F MS WILSON: Your Honour, yes, there is no objection from the Guardian for that going in, I
can certainly send it to the mother, or -- well, Ms Shield, I am sure, can.

MS SHIELD: Yes, of course.

JUDGE HAIGH: Well, if you can send that first to mum.

G MS SHIELD: Yes.

JUDGE HAIGH: If mum is okay with it. I mean, at the end of the day it is what it is, isn't it?
It's a letter.

MS SHIELD: Yes, it --

H JUDGE HAIGH: Unless someone is going to say it is a forgery, it is a letter. If there is no
objection to it, do not get stuck on it, say there it is, and send it to me, so I can have a
look at it.

MS SHIELD: I am grateful.

JUDGE HAIGH: Okay?

A MS SHIELD: Your Honour, then --

JUDGE HAIGH: I have not seen the video clips, I have seen the email with the link to the video clips, I have not clicked on the link yet. So, I will do that, as mum agrees, and there is no objection from the Guardian --

B MS SHIELD: Yes.

JUDGE HAIGH: -- I will have a look at those whilst you are talking about the other things.

C MS SHIELD: Your Honour, [the father] has located a transcript of your Honour's judgment from the hearing of 18 March 2022. This is something that he raised with me towards the end of last week. Your Honour, what I would like is for that transcript to be part of the court bundle. Your Honour, I have no doubt that the court recalls its decision --

JUDGE HAIGH: Well, it was transcribed --

MS SHIELD: -- although it was March of last year.

D JUDGE HAIGH: -- it is written, it is here, I have read it.

MS SHIELD: Yes, but it is not in the bundle.

JUDGE HAIGH: Right.

E MS SHIELD: Your Honour, I would like to rely on it, because it sets out of course your Honour's reasoning --

JUDGE HAIGH: Yes.

MS SHIELD: -- for making the decision --

JUDGE HAIGH: Yes.

F MS SHIELD: -- that you did, which the father says --

JUDGE HAIGH: Well, it is a matter of record --

MS SHIELD: -- the mother was not happy with.

JUDGE HAIGH: -- isn't it? Has anyone got an objection to that?

G MS WILSON: I would appreciate a sight of it, your Honour.

MS SHIELD: Yes.

MS WILSON: I have not seen your judgment from the last set of proceedings.

H JUDGE HAIGH: Sounds as though you are going to be sent a lot of emails in the next seconds --

MS WILSON: It sounds as though, your Honour, in the next 15 minutes, I will be doing a lot of reading, yes. I would like to take instructions, although I do not anticipate there being an issue, but I would like to at least have sight of it --

JUDGE HAIGH: It is what it is --

A MS WILSON: -- if it is going to be --

JUDGE HAIGH: -- isn't it?

MS WILSON: -- referred to -- yes. Quite.

B MS SHIELD: Yes. Your Honour, then, very finally: The Guardian has produced a report, the father prepared a letter to [child] which the Guardian was attempting to show to [child] by making an appointment with the mother. I do not know whether or not that appointment has happened. It did not happen before the Guardian filed her report. No, she is shaking her head.

C Your Honour, it is a simple one-page letter that has been done using a computer.

I would like that to be part of the evidence, please. The father obviously has a copy that he can send.

D MS WILSON: I am not entirely sure what the relevance of the court having sight of the letter. The Guardian has made reference to it in her report, and she makes reference to it being child-focussed, and was anticipating sharing it with [child], although has not had the opportunity. Your Honour, I do not have any other submissions to make about this one-page letter that father has written. I do not know what he proposes to talk about --

E MS SHIELD: The point is that --

MS WILSON: -- in relation to it --

F MS SHIELD: -- the Guardian has acknowledged that it is child focussed, I would like the court to see the kind of letter that the father puts together in attempting to make contact with his [child].

G JUDGE HAIGH: I am going to assume the mother has not seen it, and I suppose might be tempted for entirely different reasons to father's to have it within the case, specifically because she has not seen it. Certainly the normal evidential rule is that if documents are referred to in pleadings or anything like that, people are entitled to see them, and for them to be part of the evidence in the case, and as it has been part of the comments of the Guardian's report, which mother may agree or disagree with.

H If you want to see it, to see whether she agrees or disagrees with it, it seems to me, this is a provisional view only, that it is difficult to say it should not be part of the evidence. But if there is good reason for it, so be it, yes, I will listen to whatever submissions are made. Do you want to have time to think about this?

A [MOTHER]: No, I don't feel that there's much merit in it, given that it hasn't actually been used, it's just a draft that [the father] has prepared, but I don't have any objection to it.

JUDGE HAIGH: It was always the plan, wasn't it, for the Guardian to speak to [the child] about it?

[MOTHER]: Yes.

B JUDGE HAIGH: But it somehow did not happen --

[MOTHER]: Hm-mmm.

JUDGE HAIGH: -- and we do not need to go into that. Where is [the child] today?

[MOTHER]: [The child is] at nursery.

C JUDGE HAIGH: Right. We could always start the case this afternoon, and allow the Guardian to be released to go up to the nursery with the letter to talk to [them] about it now, if you want? Whilst you are all thinking about all the other things. That was the plan, wasn't it? (Pause). Silence. Silence.

D [MOTHER]: Yes, I'm just -- well ...

JUDGE HAIGH: Just what?

[MOTHER]: -- I am a bit thrown --

JUDGE HAIGH: Just what?

E [MOTHER]: Given the amount of work that we have to get through in the next few days --

JUDGE HAIGH: We will get --

[MOTHER]: -- I'm just --

JUDGE HAIGH: Do not worry, we will get through this, do not worry.

F [MOTHER]: Okay.

JUDGE HAIGH: We will get through it, do not worry about that, we will get through it.

[MOTHER]: (Confers aside sotto voce). I think given that we've had several months to undertake this work, without any -- you know, and it hasn't been done --

G JUDGE HAIGH: It was not done because it was cancelled.

[MOTHER]: It wasn't cancelled.

JUDGE HAIGH: Wasn't it?

[MOTHER]: No.

H JUDGE HAIGH: I thought -- let me just go back to the Guardian's final report, just bear with me. I am talking about the meeting with [the child] and --

[MOTHER]: Yes.

JUDGE HAIGH: -- about the letter.

[MOTHER]: Yes.

A JUDGE HAIGH: What is your take on this?

[MOTHER]: Going to see [them] at the nursery?

JUDGE HAIGH: Yes, talking to [them] about the letter.

[MOTHER]: What -- sorry? I ... (confers aside). Oh, as in to why the meeting didn't

B happen?

JUDGE HAIGH: Yes.

[MOTHER]: I gave my availability in -- I can't remember when it was, was it May or

June -

C JUDGE HAIGH: Just tell me --

[MOTHER]: I didn't hear back until the day the report was due, at which point I was

already at work, and [the child] was at nursery, so I couldn't then leave work and take [them]out

D of nursery. We then arranged to meet on the Friday, I waited -- we waited -- [the child]

waited by the door for about an hour and 45 minutes, and we couldn't get in touch with

Ms Lomas and, when we eventually did, she said she had been detained, and then been

stuck in traffic somewhere else, and asked if she could come later that evening, and I

E said it would be very difficult logistically for me to get back, and then I said I'd try and

move things around, and then I sent an email saying I couldn't, and then I didn't hear

anything else, and --

JUDGE HAIGH: Okay.

[MOTHER]: -- I didn't hear any ...

F JUDGE HAIGH: Okay.

[MOTHER]: -- response to voicemails, so I didn't --

JUDGE HAIGH: I understand.

[MOTHER]: I don't believe I cancelled an appointment, I believe I waited as long --

G JUDGE HAIGH: Okay.

[MOTHER]: -- as I could --

JUDGE HAIGH: Okay. Okay, and when was this?

[MOTHER]: What -- I'm not sure of the exact date --

H JUDGE HAIGH: Approximately, I do not --

[MOTHER]: It was --

JUDGE HAIGH: It does not have to be the exact date --

[MOTHER]: It was --

JUDGE HAIGH: -- do not worry.

A [MOTHER]: -- the Friday after the report was due, so was that the end of July? Was it ...
Sorry -- I can't remember the date --

JUDGE HAIGH: Yes, couple of weeks ago.

[MOTHER]: Yes.

B JUDGE HAIGH: Couple of weeks ago. So, the original plan was to talk to [the child] about the
letter. Whether good reason or bad, it all fell apart, but that was the plan --

[MOTHER]: Hm-mmm.

JUDGE HAIGH: -- everyone signed up to it, everyone thought it was a good idea.

C [MOTHER]: Hm-mmm.

JUDGE HAIGH: Why is it now no longer a good idea? (Pause). Or is still a good idea?
You can tell me it is a good idea. I do not want--

[MOTHER]: I think --

D JUDGE HAIGH: -- to put words into your mouth.

[MOTHER]: No, I just feel like just ...

JUDGE HAIGH: Just feel what?

[MOTHER]: Given how the recommendations that the Guardian has made, and the ...

E JUDGE HAIGH: She has not made any recommendations.

[MOTHER]: In the statements, there are a number of --

JUDGE HAIGH: She has just said there are four alternatives --

[MOTHER]: Yes.

F JUDGE HAIGH: -- "Over to you, Judge".

[MOTHER]: Yes.

JUDGE HAIGH: "No contact, move to father -- "

[MOTHER]: Yes.

G JUDGE HAIGH: "-- section 37, or incredibly, if you can illicit some degree of cooperation
with the parents, an Independent Social Worker".

[MOTHER]: Hm-mmm.

JUDGE HAIGH: She has just given me the four options, she has not told me what to do --

H [MOTHER]: Yes, but it's going to nursery and upsetting [the child] --

JUDGE HAIGH: It might not upset [the child].

[MOTHER]: -- at this point. Based on the previous experiences [they've] had, is that --

JUDGE HAIGH: But that would have happened --

[MOTHER]: -- going to be --

A JUDGE HAIGH: -- two weeks ago, wouldn't it?

[MOTHER]: -- beneficial?

JUDGE HAIGH: Do not know.

[MOTHER]: Yes.

B JUDGE HAIGH: I am trying to understand --

[MOTHER]: Yes.

JUDGE HAIGH: -- why things are different today to how they were two weeks ago --

[MOTHER]: Because I hope that by the end of this week we will have a plan of how we

C are going to move forward ...

JUDGE HAIGH: A plan?

[MOTHER]: Yes.

JUDGE HAIGH: (Pause). Well, isn't the plan this, "Judge -- "

D [MOTHER]: To make a decision, yes --

JUDGE HAIGH: " -- it is over to you"?

[MOTHER]: Yes.

JUDGE HAIGH: "We both know", "we" being the parents", that is you two, with parental

E responsibility, "We both know that whatever you order, Judge, is going to cause our

[child] significant emotional harm -- "

[MOTHER]: Hm-mmm.

JUDGE HAIGH: " -- but that's your job, Judge, because we can't sort the problem out. We

F don't have a plan". Do not worry, that is my job, I have to do these things, I do not feel

good in these circumstances. One of you will describe me in the most terrible of terms

after the end of this case, possibly, *possibly*, both of you might. But that is my job, I

have to do it, because you the parents with parental responsibility have not come up with

G the answers, and that is just a fact. That is why I slightly reacted when you said,

"Coming up with a plan", because really there is no plan --

[MOTHER]: No, it's hard --

JUDGE HAIGH: -- anymore, is there?

H [MOTHER]: -- for me to articulate properly, sorry --

JUDGE HAIGH: I know, it is okay, do not worry. Do not worry, if the words do not come

out right, do not worry about that, I do get that completely. I do get that completely.

And I hope you do not mind me challenging, as I will, over the next three or four days,

A both of you, when the words do not come out right, or when you do not say things that I think are child-centred, because, trust me, I will. Okay, so, it is back to the question.

[MOTHER]: Yes, I just --

JUDGE HAIGH: Two weeks on, why not?

[MOTHER]: What -- I think last time I offered, you know, for there to be indirect contact,

B and that hasn't happened, but --

JUDGE HAIGH: No, I am not talking about --

[MOTHER]: -- I don't know --

JUDGE HAIGH: I am not talking about --

C [MOTHER]: -- what would be --

JUDGE HAIGH: -- the plan or the outcome of the case --

[MOTHER]: -- the --

JUDGE HAIGH: -- I am talking about the Guardian and the letter.

D [MOTHER]: Yes, what would be -- I think it would hinge on what would be the purpose.

Would it be to gauge [the child]'s reaction to it, and is that something we need as part of these proceedings? Or have we got enough information on that already, to be able to ...

JUDGE HAIGH: To what?

E [MOTHER]: I ... Is the purpose of leaving proceedings to go and visit [the child] at nursery to read the letter -- would the purpose of that be to gauge [their] reaction to the letter or just as a form of --

JUDGE HAIGH: The Guardian has --

F [MOTHER]: -- indirect contact?

JUDGE HAIGH: -- a responsibility to the child.

[MOTHER]: Yes.

JUDGE HAIGH: To give recommendations to the court, and to provide information to the

G court which will assist the court make a welfare determination, that is her job --

[MOTHER]: Hm-mmm.

JUDGE HAIGH: -- that is her responsibility, she comes to it with no agenda from either parent's perspective. Her focus is on the child alone. A letter has been written, it was

H suggested and recommended the letter be written. It has been written.

[MOTHER]: Hm-mmm.

JUDGE HAIGH: An attempt has been made to gauge the child's response to the letter, that has not happened, that is information which I assume by arranging this meeting

A everyone thought was needed at this hearing, it has not happened, I do not have that information. I am asking the question: Why don't we do it now? We do not have to enquire beyond that, that is her job to do this stuff.

[MOTHER]: Hm-mmm.

B JUDGE HAIGH: What happens happens, and what she feeds back to you both, she feeds back to you both and me, and everyone. It is the sort of thing CAFCASS officers do day-in and day-out, routinely as part of their work.

[MOTHER]: Yes, but it is going to upset --

JUDGE HAIGH: We do not know that.

C [MOTHER]: -- [the child].

JUDGE HAIGH: We do not know --

[MOTHER]: Based on --

JUDGE HAIGH: Well --

D [MOTHER]: -- the previous --

JUDGE HAIGH: -- what we can say is--

[MOTHER]: -- meetings.

JUDGE HAIGH: -- is that there is a possibility that --

E [MOTHER]: Yes.

JUDGE HAIGH: -- it might have that effect, but there is also a possibility it might not.

F [MOTHER]: And it's the balance of [the child] being upset, bearing in mind [they're] starting school in a couple of weeks, also bearing in mind I don't -- we don't -- I don't know what the outcome of these proceedings may be. Is it -- is the necessity for [them] to read that letter -- does that outweigh the balance of causing distress to [them] without ...

JUDGE HAIGH: Well --

[MOTHER]: -- knowing what --

G JUDGE HAIGH: -- you do --

[MOTHER]: -- the future holds?

JUDGE HAIGH: You do the risk assessment yourself, you are asking me to make a decision that will have almost certain emotional harm to your [child]. If I say, "Stay with mum, no contact with dad", this [child] will grow up with no relationship with a father that loves

H [them].

[MOTHER]: Hm-mmm.

A JUDGE HAIGH: He may not qualify as father of the year, he may have his flaws, as I am sure you would admit you have, as a parent.

[MOTHER]: Hm-mmm.

B JUDGE HAIGH: As we all have. But he loves his [child], and he wants to be part of [their] life, and [they] will grow up with no relationship with that father. Now, the consequences emotionally for the child are this: At some point [they] will be curious, possibly mid teenage years, late teenage years, those years where little [children], or big [children], or teenagers, as [they] will be then, particularly [redacted], tend to challenge their mothers.

Not always --

C [MOTHER]: Hm-mmm.

JUDGE HAIGH: -- but tend to. [They] will then go and see dad, find him, he will welcome [them], [they] will meet him, [they] will form [their] own assessment of him as a young adult, unhindered by the baggage that you have got from the relationship, not completely with an open mind because of course [they've] spent teenage [years] with this view, that he is a man to be feared, frightening, likely to cause harm, demonised.

D

And there will be a disconnect with the person [the child] meets and the person [they think] he is. Now, when people talk about emotional harm, in the scenario -- this is the first scenario, this is the scenario you want. When people talk about that risk of emotional harm, that is what you are staring down the barrel at. It may not happen,

E [they] may choose never to see [their] dad ever, ever, ever again. Very unlikely, very, very unlikely. The former is more probable. So, that is emotional harm of one of the outcomes.

F Emotional harm of outcome number two, we are all I think pretty crystal clear on that. Separating a child who is attached to its primary carer in circumstances where for a period of time in all probability I am going to have to say no contact until that initial phase is over, [they are] settled, attached to father, understanding things better, can cope with it, until you have done work -- you may say, "The judge has made his mind up already", but he has not. I am giving you the two scenarios, do you understand?

G [MOTHER]: Hm-mmm.

H JUDGE HAIGH: And that will cause not the long-term emotional harm that I am talking about now -- or before rather, of growing up with this strange dysfunctional view of [the] father, until the reality disproves it, that is long-term insidious emotional harm, perhaps with a crisis built into the end point, when the truth is out, how will that affect your relationship with [the child], will [they] think [they've] lived a lie, for 16, 18 years?

A As I say, [they] may not, [they] may not. [They] may never want to see [their] dad, and it may always be fine. So, short-term emotional harm -- you are looking troubled and anxious. Just take it in. I am not asking you any questions at the moment, I am just saying things for you to try and understand the process we are going through, the process I will have to go through.

B I have to choose between these two harms:

C The short-term terrible harm that I would cause if I removed [them] from your care, placed with father, hoping that there is no long-term damage, that the situation can be stabilised, settled, and father is fine. And that you take whatever you need to, to solve the difficulties you have, and your relationship can then be restored with [the child] at some point, but there will be a break, almost certainly, for a period of time.

D Against the longer-term harm that I have already talked about, in terms of the reverse, where I have said [they're] with you, no contact with dad. And you may say, "Well, there will always be indirect contact", well, that is -- let's be realistic about that.

E So, when you talk about harm at the nursery this morning, think about the other harms that you are asking me to decide upon at the end of this case, both of you. I am not just directing these comments to mum. You are both -- individually you may both think that you are blameless. If we finish Day Four and one of you is blameless, I will be very pleased for that person, highly delighted, they will be happy, no reason why everyone else should not be happy, but I would be very surprised, having read everything I have read in this case. That is why you may think it is a good idea to think about the (inaudible) a little bit more carefully, but anyway, there we are. Think about that.

F It is possible [they] might be upset, transient short-term, okay? How many children, 3 or 4-year-olds, do not spend some part of every day getting in some sort of state of distress because they are cross about something? It just happens, doesn't it? You as parents manage it, calm it, and resolve it, and you rely on childcare professionals, the Guardian and the nursery staff, to do exactly the same, but there is also a chance that [they] will not be, and the Guardian can come back and give us some helpful information. Either way.

H So, I am struggling to understand why there should be opposition to this, but if you

want five minutes to think about it --
[MOTHER]: Yes, please.

JUDGE HAIGH: -- have it. What I do not want, please, is any telephone calls to the nursery.

A Is that clear?

[MOTHER]: Yes.

JUDGE HAIGH: By either of you. Is that clear?

MS SHIELD: Yes.

B JUDGE HAIGH: Thank you. (Pause). Good, how long do you need?

[MOTHER]: 5 --

JUDGE HAIGH: 15 minutes, 20 minutes?

[MOTHER]: Yes, 15 ... 10 ... 5 or 10 minutes --

C JUDGE HAIGH: I have not spoken to the Guardian, the Guardian may say, "That is the worst idea I have ever heard".

MS WILSON: She does not, your Honour. The Guardian would be supportive of a short trip to [the child]'s nursery -

D JUDGE HAIGH: Yes.

MS WILSON: -- to show [the child] the letter, having --

JUDGE HAIGH: We can start at 2 o'clock.

MS WILSON: Attempted.

E JUDGE HAIGH: Yes.

MS WILSON: It may be, your Honour, that that may be sensible. There are of course a number of housekeeping matters that have been raised by my learned friend this morning. I certainly need to take instructions on the McKenzie friend point as well, in

F light of the mother's application -- as I understand it, the mother makes an application for special measures as well, and so that is linked to the McKenzie friend.

JUDGE HAIGH: Has there ever been an application for special measures?

[MOTHER]: Yes.

G JUDGE HAIGH: Well ...

[MOTHER]: I made one last week.

JUDGE HAIGH: Sorry?

[MOTHER]: Last week, and I was offered them by Mr ... Hankinson last time we were

H meant to have a hearing ... person.

MS WILSON: I understand that the mother has not -- there have been remote hearings in this case, your Honour, as I understand, all the way through. The mother has not had her camera off for any of those hearings, I am instructed. I have not seen an application for

A special measures, and there was no consideration of that in anticipation of this being a final hearing, where up until this morning both parents were Litigants in Person, as I understood it --

JUDGE HAIGH: Yes, yes --

B MS WILSON: -- and would of course be privy to asking each other questions in cross-examination. That links to the mother's application for permission for her McKenzie friend to essentially be granted a right of audience, which is not permitted to unregistered barristers in the unregistered barrister guidance, and so I will need to speak to my learned friend and Ms Baker outside of court, and perhaps the mother, in terms of whether she wishes to pursue that. Ms Baker of course will know that, being an

C unregistered barrister, or should know that. But perhaps, your Honour, I will not say any more but it may be that if the court would grant perhaps a period of being stood down --

JUDGE HAIGH: Yes.

D MS WILSON: However, if the mother can take stock on the nursery point, I would be grateful. If we are then going to --

JUDGE HAIGH: Let's deal --

MS WILSON: -- have a bit of a --

E JUDGE HAIGH: -- with that first.

MS WILSON: -- delayed start, then the Guardian can certainly go --

F JUDGE HAIGH: And we will deal with participation directions and vulnerability, but do not forget the words: Vulnerability first, participation directions second, and you only ask for participation directions if, as a result of an identified vulnerability, participation, effective participation, in a hearing is somehow going to be compromised, and you are not going to have an effective hearing. Now, think about that carefully, so that you have coherent arguments, whatever your position is, on that issue.

G MS SHIELD: Your Honour --

JUDGE HAIGH: I will say no more than that.

MS SHIELD: -- I understand that in fact there have been several attended hearings before your Honour when special measures were not --

H JUDGE HAIGH: I do not know --

MS SHIELD: -- requested.

JUDGE HAIGH: -- I mean, what is the -- I know I took this over from DJ ...

MS SHIELD: DJ Carr.

A JUDGE HAIGH: Carr, that is right. I mean, that was a final hearing. Were there participation directions in that hearing, do we know?

MS WILSON: Both parties were legal represented --

JUDGE HAIGH: They were.

MS WILSON: -- at the --

B JUDGE HAIGH: They were.

MS WILSON: -- previous final hearing, your Honour, yes.

JUDGE HAIGH: They were, yes. I mean, did everyone bother with screens and this and that?

C [MOTHER]: It's been remote hearings for the past --

JUDGE HAIGH: No, I was talking about the one before Judge Carr.

MS SHIELD: Yes, your Honour, my understanding is that it was in person, and there were no special measures.

D JUDGE HAIGH: Both had counsel both in court.

[MOTHER]: Yes, I mean, I did ask for special measures at the time, but my representation said that courts don't --

JUDGE HAIGH: You do not have --

E [MOTHER]: -- like them.

JUDGE HAIGH: -- to tell me -- you do not have to tell me what your lawyers advise you, that is one of the things that --

[MOTHER]: Oh, okay, sorry.

F JUDGE HAIGH: It is okay, do not worry.

[MOTHER]: Anyway, but obviously that was previous to the 2021 Domestic Abuse Act as well.

G JUDGE HAIGH: Indeed it was. Well, go down that route at your risk. I am sure you will advise on what the implications of that finding are in terms of we do not have a hotline to QLR, as you know. We do not. And that is when I assume we can find them. Think about the implications of what you are doing before you take these steps, everyone.

MS SHIELD: Your Honour, for the record, [the father] fully supports the Guardian going to see [the child] --

H JUDGE HAIGH: Okay.

MS SHIELD: -- this morning --

JUDGE HAIGH: All right.

MS SHIELD: -- with the letter.

A JUDGE HAIGH: Yes.

MS SHIELD: Bearing in mind that it is the mother's position, as set out in her statement at C82, that she invites the court to order indirect contact by way of letters sent to her parents' address, and that she will keep for [child], father was obviously concerned that if this is the mother's immediate reaction to [the child] being shown one letter, it is hardly supportive of her position in respect of --

B JUDGE HAIGH: Mother has --

MS SHIELD: -- what she is asking the--

C JUDGE HAIGH: -- nailed her --

MS SHIELD: -- court to do.

JUDGE HAIGH: -- colours to the mast.

MS SHIELD: Yes.

D JUDGE HAIGH: She will retain indirect contact for [them], she has said that in her statements.

We do not need to go behind that, that is her position.

MS SHIELD: Your Honour will appreciate the point that there is immediate reluctance when it is suggested that a letter is shown to [the child], with the support of a professional --

E JUDGE HAIGH: Well, mother's reluctance is based on the fact that she thinks [child] may get

upset, and [they] might. But we have all got to ask ourselves the question: How do we balance that against the importance of the decision the court is being asked to make, and how information that is going to help the court in making that important decision is being, at the moment, withheld from the court, and should not be?

F

MS SHIELD: Yes.

JUDGE HAIGH: So, look, I have said enough. Go away and think about all these various applications very, very carefully. You may both look at the history of this case, and at many times wish you had taken different steps to the decisions that you have made at various times, you may both feel that. Try not to do it today, let's try and make all the right decisions today please.

G

Good, so, we will resume at 11.45 then, half an hour for this. If everything is okay with the Guardian, I am happy for the Guardian to go, she does not have to come back into court, and disappear straightaway, as long as you have got all the instructions you need, and we will resume -- well, I will assume we will resume at 2 o'clock. We may all

H

need to reconvene to deal with the remaining parts of the procedural issues that need to
A be sorted out before we start at 2 o'clock.

MS WILSON: Your Honour, yes.

JUDGE HAIGH: Not least with our friend from the press.

MS WILSON: Yes.

B JUDGE HAIGH: Who no doubt is sat there patiently waiting for a decision from me.

MS WILSON: Your Honour, yes, I am sure. There is the other matter which I relayed to
your very kind clerk this morning but about the experts, Dr Allwin --

JUDGE HAIGH: Yes, that is --

C MS WILSON: -- and Dr Milson.

JUDGE HAIGH: -- fine -- yes.

MS WILSON: As long as the court is aware --

JUDGE HAIGH: We will fit in with them, and it is fine by Teams, everyone agrees with
D that, I am hoping?

MS WILSON: Yes --

JUDGE HAIGH: Yes.

MS WILSON: -- I am grateful, your Honour, I have an obligation just to notify their office --

E JUDGE HAIGH: Yes.

MS WILSON: -- and so, if that is okay, I will do that --

JUDGE HAIGH: Yes.

MS WILSON: -- during the --

F JUDGE HAIGH: Yes.

MS WILSON: -- brief adjournment, so that they can both be prepared for --

JUDGE HAIGH: Excellent.

MS WILSON: -- both tomorrow afternoon, and then first thing Wednesday.

G JUDGE HAIGH: Excellent.

MS WILSON: Thank you, your Honour, I am grateful.

JUDGE HAIGH: Thank you all. Anything else at the moment or not? No?

MS WILSON: No, thank you.

H MS SHIELD: No, thank you.

[MOTHER]: Thank you.

JUDGE HAIGH: Good.

(A short adjournment)

A

JUDGE HAIGH: Okay, let's deal with the procedural issues one by one, okay? The letter and the nursery. Have you expressed a view on that, everyone? Have you formed up your positions or not?

B

MS WILSON: Your Honour, I'll address you: I did take the opportunity with Ms Lomas

present to have a very brief discussion with the mother outside of court, as to what her position was. She reiterated to me, and she will correct me if I have recalled this incorrectly -- she reiterated and queried the sort of -- my phrase -- "probative value" of the Guardian going to the nursery, and whether it was necessary for the court to have that information before it.

C

I separated out the difference to [the mother] of the mother agreeing versus letting the judge make the decision. The mother has not expressly said to me that she agrees for the Guardian to go to the nursery to show the letter, and so it is likely the court is

D

required to make a determination on that point, and the court may wish to hear from the mother. The Guardian is supportive, and sent me a copy of that one-page document.

E

JUDGE HAIGH: Okay. I do not want to put words into your mouth, and you must tell me how you honestly feel: Is it a sort of situation where you think, "Well, I don't really want to make that decision, I don't want to agree to it, but I don't want to oppose it, I'm just neutral about it, I'd just better leave it to the court, can't get my head around it"? If that is what you feel, do not be afraid to say it.

F

[MOTHER]: Okay.

JUDGE HAIGH: If you have strong views on it, if you say, "Well, I don't want it to happen for these reasons", or, "I do want it to happen for these reasons", tell me what they are.

[MOTHER]: I do have concerns about it upsetting [the child] and --

G

JUDGE HAIGH: Yes.

[MOTHER]: -- it being an imposition on the nursery, and obviously neither the nursery or [the child] is prepared for it. But if your Honour feels that this information is necessary to make a judgment, then I understand that, so I'd ... welcome you to make a decision.

H

JUDGE HAIGH: Okay, okay, thank you. And dad's position is --

MS SHIELD: Your Honour, yes --

JUDGE HAIGH: -- you said supportive, didn't you, before?

MS SHIELD: He fully supports, yes, and --

JUDGE HAIGH: Okay, all right.

A MS SHIELD: -- this will provide the court with the most up-to-date --

JUDGE HAIGH: Yes, well --

MS SHIELD: -- information it could have about [the child] --

B JUDGE HAIGH: Okay, okay. Well, look, this was information that was planned to be before the court. The only reservation that I hold is the one that is held by mother, and I have had to think about whether I am imposing upon the Guardian, and creating the risk of upset with [the child].

C I sense that (inaudible) probably not. It is hard to predict but, as I said to mother before we broke and stood the matter down, this will not be the first occasion in this case where I am asked to make a decision thinking almost to the point of certainty as to the decisions that lie ahead that I am going to be causing emotional harm. And so, I have to balance that, even though there is a risk we might be causing a bit of upset.

D The importance of that end decision, whichever way I go, balancing the harm that inevitably will happen, whichever road I go down, it is proportionate, it seems to me, and necessary that we close this evidential gap, give the Guardian the opportunity to do what she planned to do, and which, through force of circumstance, I am not pointing the finger of blame at anyone, she could not do, for whatever reason, in terms of speaking to **E** [the child] about the letter, and being able to report back to the parents, and all the other professionals and the court as to the outcome.

F It may be a small point in the overall context of the evidence in the case, but I think it is still an important one, and on balance I think we should go down that -- so, yes, I am directing that that occur.

Okay, I mean, if the Guardian wants to scoot off now, that is --

G MS WILSON: Well, your Honour --

JUDGE HAIGH: -- okay.

MS WILSON: -- I had just spoken with your very kind clerk about having just one copy of that letter printed, the --

JUDGE HAIGH: Okay.

H MS WILSON: -- Guardian did not have a printed version --

JUDGE HAIGH: Okay.

MS WILSON: -- so I have just emailed that, and so perhaps as soon as that is able to be printed, the Guardian will --

JUDGE HAIGH: Yes.

A MS WILSON: -- with your permission, shoot off, as it were, and go to the nursery.

JUDGE HAIGH: Yes, that is good --

MS WILSON: I am grateful, your Honour, thank you.

B JUDGE HAIGH: And I reinforce what I said before: I do not want anyone other than the Guardian communicating with the nursery please, or [child] obviously. (No audible responses). Thank you.

Could you get that letter done sort of pronto?

THE CLERK OF THE COURT: Your Honour, yes.

C JUDGE HAIGH: And I think it would be helpful if the Guardian could just do a sort of one-paragraph, two paragraphs, I am not -- it can be as long as she wants, but I am saying it can be as short as she wants as well: Just a summary of what has happened --

MS WILSON: Of course, your Honour, I can perhaps put that in --

D JUDGE HAIGH: Yes, so everyone --

MS WILSON: -- a position statement of sorts.

JUDGE HAIGH: -- can see it, and everyone --

MS WILSON: Yes.

E JUDGE HAIGH: -- can -- and it does not have to be this afternoon, it can be -- I do not think we will -- we probably will not finish father's evidence, I would not have thought, today, and, if we do, we can always recall him ...

MS WILSON: Your Honour, yes, I --

F JUDGE HAIGH: -- but it is important for everyone to see it, I think, in writing. Just --

MS WILSON: Yes, I will put it in a position statement, your Honour, so that I can circulate that --

JUDGE HAIGH: Good.

G MS WILSON: -- as soon as practicably possible.

JUDGE HAIGH: Thank you. All right, so, we have dealt with the McKenzie friend, that is granted. We now need to deal with rights of audience, don't we? What is ... Do you ... I mean, I have seen what you have --

H MCKENZIE FRIEND: Sorry, your Honour, if I could --

JUDGE HAIGH: Yes.

MCKENZIE FRIEND: After discussion, we would like to withdraw that application --

A JUDGE HAIGH: Okay. (Pause). Okay, all right. Well, I think the next logical one then is your application for special measures. What do you want to say about that?

[MOTHER]: As we covered before, we had a couple of hearings back in 2019 when we were represented, we weren't required to give any evidence, and then subsequently ...

B JUDGE HAIGH: Can I just -- there will be moments when I just want to say something --

[MOTHER]: Yes.

JUDGE HAIGH: -- in relation to something: When you say, "When we didn't require to give evidence", the hearing before Judge Carr was a two-day final hearing, where I know you compromised it, I understand that, but, had you not compromised it, you would have all

C been in the witness box, wouldn't you?

[MOTHER]: I can't remember what applications my representation made at the time, but none of that was --

JUDGE HAIGH: It was a two-day final hearing.

D [MOTHER]: Yes, none of it was done in the court, apart from --

JUDGE HAIGH: I know --

[MOTHER]: -- last -- but yes.

JUDGE HAIGH: I know, you were outside court, and you all cut a deal, and you produced

E that agreed schedule, I totally get that, understand that, and so you did not need to go into the witness box because everyone knew what needed to happen next, which was a section 7 referral for a report --

[MOTHER]: Okay.

F JUDGE HAIGH: -- and so there was absolutely no need for anyone to go into the witness box. The point I am making is different. When you walked into the court that morning, and when everyone was thinking, "Do we need special measures? Is there vulnerability? Do we need participation directions?", no one knew that that agreement was going to be

G reached, it was game on, both of you were making allegations against the other, of domestic abuse, and Judge Carr, had you not reached an agreement on that schedule, would have had to make all those decisions, and you both, mum and dad, would have had to go into the witness box and give evidence. That is the point I am making.

H [MOTHER]: Yes, I mean, I did ask for special measures at that time, but I'm not sure what happened with that --

JUDGE HAIGH: Okay.

[MOTHER]: -- request.

JUDGE HAIGH: Did it sort of get forgotten about?

A [MOTHER]: I think probably, I don't know, it was a few years ago.

JUDGE HAIGH: Yes.

[MOTHER]: So, this is the first hearing in person and obviously it's --

JUDGE HAIGH: Yes.

B [MOTHER]: -- the first hearing at which ...

JUDGE HAIGH: Yes.

[MOTHER]: -- I am (inaudible) ... speak and --

JUDGE HAIGH: Yes.

C [MOTHER]: -- think and --

JUDGE HAIGH: Yes.

[MOTHER]: -- be able to ...

JUDGE HAIGH: Yes.

D [MOTHER]: -- make any kind of representations --

JUDGE HAIGH: I understand that.

[MOTHER]: -- and I feel like the screen would help.

JUDGE HAIGH: You have got to think of screens in two different ways. We can have a

E screen in court --

[MOTHER]: Yes.

JUDGE HAIGH: -- which stops both parties looking at each other, and I express it that way

F because sometimes people acquire a sort of victim mentality about this, they say, "You're only putting a screen up because she or he is presenting themselves in a victim -- and I don't agree with it, because they're not", so on and so forth. Another way of looking at that of course is if the screen is just there, it is screening both of them from looking at each other, so it is fairly neutral.

G [MOTHER]: Yes.

JUDGE HAIGH: There then is the issue of screening the witness box when you are giving

H evidence. Now, that is slightly different, if you think about it, because when you are in the witness box you are giving evidence, and giving evidence is a verbal but it is also a physical ... dimension to it, you know, the way people communicate, is part of the communication. And if you strip that out -- for instance, let me turn it around: If I put a screen there, and put dad behind the screen, he could be answering my questions, and

A you would not see that he might be laughing, or a huge smile on his face. I would see it, you would not.

[MOTHER]: Hm-mmm.

B JUDGE HAIGH: Do you see how disadvantaged everyone can soon become by screens being around the witness box? The advocates are not disadvantaged because they sort of see it all, and the judge does. But the parties do not, and this is your case. This is an important day, few days. It is your case. So, both of you need to think very carefully about that. What sort of participation directions are you saying you need, and what is the vulnerability? I think those are the two key questions I need to understand. (Pause).

C It is all right, you can ask your McKenzie friend, do not worry.

[MOTHER]: Okay. (Confers aside). Okay, sorry, I was just asking --

JUDGE HAIGH: It is okay, you do not have to apologise --

[MOTHER]: Participation directions, I wasn't --

D JUDGE HAIGH: -- that is what the McK --

[MOTHER]: -- sure what they --

JUDGE HAIGH: That is what the McKenzie friend is there to do --

[MOTHER]: Yes.

E JUDGE HAIGH: -- to help you, so do not apologise.

[MOTHER]: (Confers aside). So, I feel like because of the history of the relationships and the incidents which have happened, and which have been ongoing since ... Actually which are ongoing. I don't feel like I would be able to ... get my words together -- I --

F while I can feel eyes burning into me and things, I can't ... focus on what I need to be able to do to get through the next few days, and be able to actually give evidence that's ... I understand about not being able to see expressions, but, your Honour, you will be able to see them, so that's the important thing.

G JUDGE HAIGH: Okay.

[MOTHER]: I think the ... report --

JUDGE HAIGH: So, in terms of participation directions do you want a screen in court or just round the witness box?

H [MOTHER]: In the court, please.

JUDGE HAIGH: Just in the court?

[MOTHER]: Erm ...

JUDGE HAIGH: Or both --

[MOTHER]: Both, yes.

A JUDGE HAIGH: (Pause). And if ... Okay. (Pause). All right. Is there anything else you want to say on this?

[MOTHER]: I think in the psychiatric -- the psychologist's report also mentions the relationship dynamics, and the fact that -- how that would play out on -- so I think that's

B also relevant here, in terms of I might not be able to -- I can't remember the exact phrasing now. Express myself properly.

JUDGE HAIGH: Okay. (Pause). All right. (Pause). Okay, now, dad's position on that --

C MS SHIELD: Your Honour, yes. Your Honour, [the father] would say that there is no reasonable basis for [the mother] to feel afraid of him. But, having said that, he has reflected on the application, and he does not actively oppose the mother's request for screens.

JUDGE HAIGH: Okay. Okay.

D MS SHIELD: On that basis of course, he will not be able to see her either. I understand the mother's basis for the application, that she might feel more comfortable giving her evidence from behind a screen, it may be that [the father] will also feel more comfortable, so there--

E JUDGE HAIGH: But how is that --

MS SHIELD: -- is no active opposition.

JUDGE HAIGH: Well, I did think about that when mother was making her application, then I tried to think of how it would possibly work.

F MS SHIELD: Yes.

JUDGE HAIGH: Because mother has got to ask him some questions.

MS SHIELD: Yes, and the -- well, your Honour, this is something I have encountered before, it is extremely artificial, because the person asking the questions cannot see --

G JUDGE HAIGH: Cannot see the ...

MS SHIELD: -- the witness.

JUDGE HAIGH: -- reaction of the witness.

MS SHIELD: Exactly, however if that is the mother's application, then, if granted, that is ...

H JUDGE HAIGH: Oh, well, that is --

MS SHIELD: That is the downside.

JUDGE HAIGH: That is only a problem if father says, "I want a screen as well, because I'm vulnerable, and I want participation directions".

MS SHIELD: Yes.

A JUDGE HAIGH: And as you both full well know, because that is what you signed up to back
in 2019, I am going to put it colloquially, and I hope not disrespectfully, on the issue of
domestic abuse it was a score draw, wasn't it? You have both made significant
concessions of domestic abuse, both of you did. Now, I am to some extent stuck with
B that.

(Pause). But that is what you did. And if father says, "I want to have screens as
well", I am faced with the same dilemma, aren't I? But he does not have to. He can
remove that problem by saying, "I respect mother's position, she can have a screen at the
C witness box, but I'm okay, I'll go there, and I don't need a screen".

MS SHIELD: Your Honour, yes. Your Honour, the father is not saying that he is vulnerable,
he is not saying that he needs to be screened from the mother, he is simply saying that he
would not object if the mother was screened.

D JUDGE HAIGH: Okay, well, that is really helpful. Does the Guardian have a view on this?

MS WILSON: Your Honour, the Guardian's observation, whether that is particularly helpful
to this court or not is: The concern of the Guardian is that within this application there
are no current live allegations of domestic abuse being pursued by either party. In
E previous set of proceedings the court is absolutely right, at a two-day fact find hearing in
front of DJ Carr, where both parties were legally represented, an agreed schedule of
findings was presented to DJ Carr, and effectively adopted as those findings.

Those were limited to specific incidents, and, as the court has observed, perhaps
F there is -- there are incidents relating to both the mother and the father, those were dealt
with in the last set of proceedings. So, when the court considers vulnerability in the
context of domestic abuse, the Guardian perhaps observes that at this stage in this
application there has not been a determination of any ongoing allegations, in particular
G of domestic abuse --

JUDGE HAIGH: They have both signed up --

MS WILSON: -- when the court considers vulnerability.

JUDGE HAIGH: They have both signed up to the schedule.

H MS WILSON: Yes.

JUDGE HAIGH: And that schedule evidenced domestic abuse by both of them on each
other.

A MS WILSON: Yes, and that is that, and that was dealt with, and it has not been pursued further, and there have been no fresh allegations by way of a schedule or otherwise raised during the course of this application.

B Your Honour, I am then concerned because moving on to consider the mother asking the father questions directly, how that practically would work. I am grateful to my learned friend for the father, in her submission that the father does not consider himself to be a vulnerable witness requiring a screen. That will require the mother to put questions to the father, if she wishes to, in any cross-examination, and so the mother will have to consider that, and perhaps prepare.

C Those are the observations by the Guardian, your Honour, I realise it may not be entirely helpful to this court: She does not oppose the mother's application, but she does raise an eyebrow at it, the timing of it, but also in the context of the wider application, there have been no special measures in any of the prior hearings during this application, during these proceedings. I accept that they have been remote hearings, but my

D instructions are that the mother has had her camera on during those proceedings and those hearings. Your Honour, unless I can particularly --

JUDGE HAIGH: No --

E MS WILSON: -- assist further?

JUDGE HAIGH: -- thank you.

MS WILSON: Thank you.

F JUDGE HAIGH: (Pause). Do you want to just deal with this issue of asking questions of father? How were you thinking about that?

[MOTHER]: Well, my initial hope was that Ms Baker ...

JUDGE HAIGH: Well, that is sort of --

[MOTHER]: -- would ...

G JUDGE HAIGH: -- no longer an option, is it?

[MOTHER]: Would ...

JUDGE HAIGH: No, let's not dwell on things that are not a solution, and let's look at what are the solutions. (Pause). How do you feel about it?

H [MOTHER]: (Pause). If ... Are there any other solutions available?

JUDGE HAIGH: Well, I mistakenly thought or my mind drifted into the wonderful world of QLRs, and then I reflected and I thought, "Well, this application was issued before July of last year", so it is not a QLR case, so that is not an option but, even if it were, we

A could not have got a QLR in court today, tomorrow or Wednesday, Thursday, because we just do not have time to do it, would not be available. I need to understand your feelings about asking questions to father before we collectively think about solutions.

[MOTHER]: My ... I feel is -- that I'd struggle to do it ...

JUDGE HAIGH: (Pause). Okay.

B [MOTHER]: (Pause). It -- yes.

JUDGE HAIGH: Okay.

[MOTHER]: It's going to be quite a traumatic experience, and I'm worried that if I can't do it, then I can't best present my case, but I don't know what the other solutions would be.

C JUDGE HAIGH: Well, the solutions are these: You do it, and you do not want to do it, you do not feel comfortable doing it, you are anxious about doing it.

Option two is for me to do it. That was commonly the position before --

[MOTHER]: Hm-mmm.

D JUDGE HAIGH: -- QLRs surfaced in applications after July last year. Was it a good place to be? No. Let me explain why. The judge cannot win. He thinks I am against him, because I am questioning him about your case.

[MOTHER]: Hm-mmm.

E JUDGE HAIGH: You are against me because you are not -- you do not think I am duffing him up as well as a barrister might do.

[MOTHER]: Hm-mmm.

F JUDGE HAIGH: Cannot win. Compromises my objectivity as a judge, but, do you know what, it may be the only answer. It is not perfect.

G Option three is -- I mean, safe in the knowledge as well that when I have asked the questions the Guardian's counsel will ask questions on behalf of the Guardian, but they will not take it from a particular viewpoint, that is not their job. You may say, "Well, why doesn't the Guardian's counsel just do it?" But that is not their job. Their job is to represent the best interests of the child, and the views of the child and the opinions of the Guardian as presented to them, not to get into the ... Get into your case, and running your case.

H So, when you ask about other options, there is only one. And that is me. But I will not do it if you want to do it.

[MOTHER]: Can I have a moment?

JUDGE HAIGH: You can think -- you do not have to make any decisions about it now --

[MOTHER]: Oh okay.

A JUDGE HAIGH: -- you can tell me later to be honest. But we do need to crack this issue of
how dad is going to be questioned. Well, let me deal with this issue of vulnerability, and I
know we have got a divided house. Mother asks for it, dad is neutral, Guardian is very
B sceptical. But let's go back to Practice Direction 3A, and that, in subparagraph (2A),
says this:

"Where it is stated that the party or a witness is or is at risk of being a victim of
domestic abuse carried out by a party, a relative or other party, the court must assume
the following matters are diminished: (a) the quality of the party's witness evidence;
C (b) in relation to a party, their participation in the proceedings."

So, both of you, through your schedule, this is the first point, have signed up as
being both the perpetrators and the victims of domestic abuse. So, for the purpose of
your application you fall within the section, and the court must consider that the quality
D of your witness evidence is going to be diminished as a result, okay? That is an
inevitable conclusion. And that your participation is going to be diminished as well. So,
that part of the test is clearly demonstrated.

Where you have reached that conclusion, subparagraph (3A)(4) requires the court
E to consider whether participation is diminished as a result of that vulnerability, and I
have said that that follows, as night follows day. So, I have a duty to consider what, if
any, participation directions are necessary. And the important word is "necessary", not
desirable, not a good idea, perhaps, but necessary. It has the connotation of the
F imperative about it, you understand?

[MOTHER]: Hm-mmm.

JUDGE HAIGH: Now, in terms of being in court, I am looking at it from two perspectives,
first of all the screen in court separating dad from looking at mum, or mum looking at
G dad, and I am considering that separately to screening witnesses. What I have to do is
have regard to the checklist of factors which is in (3A)(7) subparagraphs (a) to (m).
That requires me pretty much to look at all the circumstances of the case:

Whether there is any actual or perceived intimidation or intimidatory behaviour.
H Save for what you both signed up to at the 2019 hearing, that does not apply.

Whether either suffers from mental disorder, physical disability or is receiving
treatment. I bear in mind here both mum and dad have vulnerabilities.

A The nature and extent of the information before the court. Well, this is a well documented case, with quite complex information.

B The issues in the proceedings. Well, I have summarised those already, it is dead simple. Why is [the child] traumatised at the sight of [the] father? Is it because [they have] been influenced by mother to behave in that way? Or is it because of father not emotionally connecting, engaging and meeting [their] needs? And I have to make a decision about that. That is the issue.

Whether the matter is contentious. And it plainly is.

C The age, maturity and understanding of the witnesses. I am dealing with here an intelligent couple, bright, articulate, in the case of mother anxious, I understand, probably much more anxious than father.

Social and cultural background, domestic circumstances: Are not particular helpful.

D The questions which the court is putting or causing to be put to the witness. Well, in the case of mother and father in the witness box, questions are going to have to be put challenging father's case on influence, call it alienation, but it is really just influence really.

Available measures to the court, and the costs of those measures.

E So, that is the framework that I have to engage with in considering participation directions, taking into account the vulnerabilities and the circumstances.

F Now, I think so far as the in-court, the dynamic in-court, I think mother would relax better, and give her evidence better if there was a screen behind her, meaning that father who is on the back row, not next to his counsel -- but if he wants to sit next to his counsel it is fine for him to do so, and the Guardian, and we can have the screen simply protecting the front row, that is fine for me, and I think mother will relax, and I think she will participate better in the hearings, and possibly dad as well. He may feel comfortable that mother does not have those feelings.

G In terms of going into the witness box, I am pretty much of the same view with mother, I am very grateful for father saying that he does not have that vulnerability, even though within the Practice Direction he might be deemed to have it, but he does not want a participation direction screening his evidence, and I am grateful for him taking that stance. I do not really think it would have been necessary, it is a different character to mum, and I do not think his participation from the witness box will be diminished as a result of that vulnerability or the absence of participation directions.

H

A But I do think that is a risk with mother. Even though I take on board what the Guardian has said. When mother gets into that witness box, and answers questions from both counsel, I do think she needs to be able to answer them fully, and I bear in mind she is not represented, she has a McKenzie friend but she does not have an advocate, and so she is more vulnerable than those who do.

B If father takes my invitation to join his counsel, if counsel agree to it, both counsel agree to it, if the Guardian wants to, and we have the screen in the middle, that will have to change when mother goes into the witness box, because all counsel, all the front bench, will need to see mother, but dad will not, so he must go back to the back row, just
C for that part of the case, I am afraid.

So, that is my decision on participation directions and vulnerability.

[MOTHER]: Thank you.

D JUDGE HAIGH: Please, neither of you think or have the view that that is because I prefer one person's case rather than another. Nothing to do with that. This is about vulnerability and participation, letting people participate fully in an important hearing, that is what this decision is about, it is not about characterising one person or another person. In fact, I have characterised you both already, you might not have been very
E happy with the way I have done it, but I have, because that is what you signed up to, okay? So, that is how we will deal with participation and vulnerability, is that clear?

[MOTHER]: Thank you.

F JUDGE HAIGH: All right. (Pause). All I can say with asking questions is that I will just have to do the best that I can. I am not your paid advocate, but I will do the best that I can. What you will need to do is to be alert during the questions that I have of father, and be prepared to write down any questions that you feel should be put to father that I have not, and that counsel for the Guardian has not. In other words, wait for the
G Guardian to finish her questioning --

[MOTHER]: Hm-mmm.

H JUDGE HAIGH: -- and then if there are any that you feel should have been put that have not been put, write them down, and, well, do it as a continuing thing, and let me have them so that we can tidy that up; is that okay? (No audible response). And I do not think I can do more than that.

[MOTHER]: No, thank you.

A JUDGE HAIGH: Other than saying this as a final position: If you want to take over at any time, you can.

[MOTHER]: Thank you.

JUDGE HAIGH: It is absolutely okay that you can. All right. (Pause). Good. (Pause). All right, have we got that letter yet? Has it arrived?

B MS WILSON: Yes, your Honour, I think it is with the ushers outside, I did not want to interrupt --

JUDGE HAIGH: Okay, no, that is fine.

MS WILSON: -- anything, I think your clerk has -- they have sent it down from the

C 13th floor, I think and --

JUDGE HAIGH: Oh, here we go. Thank you very much, perfect timing.

MS WILSON: Thanks. Do you mind if I just turn my back --

JUDGE HAIGH: No, no, no. No, it is fine.

D MS WILSON: (Pause). Your Honour, are you content for the Guardian --

JUDGE HAIGH: Yes, that is absolutely --

MS WILSON: -- then to be dismissed for now?

JUDGE HAIGH: Absolutely fine.

E MS WILSON: Thank you, your Honour.

JUDGE HAIGH: And if you need more time, if you want us to start at 3, just get a message through, and we will start at 3. We will finish this case, do not worry, we will finish it, I promise you.

F MS WILSON: Your Honour, yes.

JUDGE HAIGH: And I do not want everyone to be in a blind rush.

MS WILSON: Certainly the Guardian will be able to keep in touch with me, your Honour, in terms of getting there, the discussion, if she requires any more time. I have had a brief --

G I have obviously taken instructions, and I am fully instructed by way of the parents' evidence, so I will --

JUDGE HAIGH: Good.

MS WILSON: -- of course keep the court informed as we go through.

H JUDGE HAIGH: Thank you. So, just tidying up the points about the bundle, father's statement, I am going to assume that is ...

MS WILSON: Yes.

JUDGE HAIGH: Not agreed as a piece of evidence, but agreed that it goes in; is that right?

MS SHIELD: As far as I understand, that is right --

A JUDGE HAIGH: Is that right?

MS SHIELD: -- your Honour, yes.

MS WILSON: Your Honour, yes, do you have a copy of it?

JUDGE HAIGH: Yes, I do.

B MS WILSON: Now? You do? I am grateful --

JUDGE HAIGH: I have not read it, but I have a copy of it.

MS WILSON: Yes.

JUDGE HAIGH: Is that agreed? Yes? Mum is nodding her head, good.

C The letter from [redacted] County Council, I think that was agreed, wasn't it?

Was it?

[MOTHER]: I haven't seen it, but yes.

JUDGE HAIGH: Well, I haven't seen it either --

D MS SHIELD: Ah, I have sent it to the court and to --

JUDGE HAIGH: Ah right.

MS SHIELD: -- [the mother].

JUDGE HAIGH: Okay. Well, if we can just make sure, please, that we have it, and --

E MS SHIELD: Yes.

JUDGE HAIGH: -- see it before we start. We are not going to start until 3[sic?], so you will have plenty of time to read this stuff. Video clips, I think everyone said that was okay? Yes?

F MS WILSON: Yes.

JUDGE HAIGH: I have seen some of them, not all of them.

The judgment transcript, that can just go in, because it is what it is, isn't it? Good.

So, that leaves us with the final issue, unless someone is going to tell me there is

G one I have forgotten about, which is the request by our friend from the press.

MS SHIELD: Your Honour, I would, if I may begin on behalf of [the father], submit that obviously we have not seen a written application on behalf of this journalist, but if an application is to be made, and I have had previous cases where this has happened, I

H would request that the journalist makes her application orally, and that we understand how she has come to find out about this case, if she has, or whether she has just gone through the lists and thought that this was a family case that --

JUDGE HAIGH: Well, how would she --

MS SHIELD: -- is four days long.

A JUDGE HAIGH: How would she ever -- I mean, that is like putting a pin in ...

MS SHIELD: It is, and why she wants to see the bundle, and why she wants to observe the case, and, your Honour, I --

JUDGE HAIGH: So, you are wanting to hear from her orally?

B MS SHIELD: Yes, I would like to --

JUDGE HAIGH: Yes.

MS SHIELD: -- see what her grounds are for her application. And in particular, on behalf of [the father] , I was somewhat alarmed at the suggestion that at the conclusion there may be an application for reporting restrictions to be lifted, that has caused great alarm to [the father].

C

JUDGE HAIGH: Okay, so, that is dad's position. What is -- ([the mother] conferring aside) -- do you need some time just to think about it?

D [MOTHER]: I was just clarifying what --

JUDGE HAIGH: Yes, you talk --

[MOTHER]: -- the reporting restrictions lifted application meant. Did that mean naming parties or does that just mean to report on ...

E JUDGE HAIGH: Well, it can mean lots of different things. Without seeing the application --

[MOTHER]: Yes.

JUDGE HAIGH: -- I do not know what she has got in her mind. At the moment, when children cases are reported, they are anonymised.

F [MOTHER]: Hm-mmm.

JUDGE HAIGH: So, people are given letters instead of names, and I say to them, when they do that, as I say to adoptive families in adoption cases, if you think in ten years time anonymisation is going to protect the anonymity and privacy of the people concerned, including the children, from algorithms and the developments in social media, you are living in cloud cuckoo land. That is what I say to them. Whether they believe me -- I mean, who knows?

G

H The transparency project is galloping forward apace, best thing since sliced bread. Whether everyone is going to get a severe case of buyer's remorse in ten years time, when everyone's private details are there on the internet for everyone to pour over and gloat, is another matter.

A I will be long gone, I promise you, it will not be my problem. I have said my piece to anyone who will listen to me about the transparency project. I have listened to what the children's ... The Youth Justice Team have said about this. And been ignored. By people who are driving this forward. And I speak as a virtual lone voice. But I strongly hold this view, it is my strongly held view.

B I think we are failing children by putting all this stuff on the internet, and I am very unconvinced about the motives of some of the journalists. Do not forget what they do: They sell copy. They have careers to pursue. And all journalists, understandably, latch onto certain issues, things of public importance that they think exist, can see that as part of their future and development. So, everything they do on this, on this transparency debate, is entirely understandable, I get that.

C What I think everyone is missing is the consequences for the family and the children if the attempts at anonymity which we have now are penetrated. And I am as convinced as I can be that they will be in the next decade -- you think of how -- you think of where we were with Facebook with algorithms -- I mean, I do not think anyone had even spoken the word algorithm ten years ago, had they? It is now going to take all our jobs, mine included. Just think where we will be in ten years time. But it is your choice, your lives. (Pause). But do not say I did not warn you. How do you feel about it.

D [MOTHER]: Well, I've seen cases being covered in news articles, and I've seen how they anonymise and --

F JUDGE HAIGH: Yes --

[MOTHER]: -- it's usually about --

JUDGE HAIGH: -- yes, yes.

[MOTHER]: -- appeal hearings --

G JUDGE HAIGH: Yes.

[MOTHER]: -- and I know that there are courts now that journalists can just go into, and sit and report as they --

JUDGE HAIGH: Yes, yes, yes.

H [MOTHER]: -- would other courts, so I kind of have a basic knowledge of how it works and, based on that, I don't have any objection, because --

JUDGE HAIGH: Do you support it --

[MOTHER]: -- unless the application -- well, I haven't seen the application.

A JUDGE HAIGH: Are you like counsel then? You would like her to come and make the application, and understand what she is up to, if I can put it like that?

[MOTHER]: Well, is the application -- when it's -- when it says lifting reporting restrictions, does that mean on ...

JUDGE HAIGH: Right, I think that comes --

B [MOTHER]: Is -- (overspeaking) -- does it?

JUDGE HAIGH: That probably comes later, I think --

[MOTHER]: Right, okay.

JUDGE HAIGH: -- we are just dealing with whether she is present, and has access to the

C bundle.

[MOTHER]: Okay.

JUDGE HAIGH: That is what we are dealing with at the moment.

[MOTHER]: Erm --

D JUDGE HAIGH: She wants to be present via Teams.

[MOTHER]: Right, okay.

JUDGE HAIGH: Which suggests that she is probably in Cornwall or Durham or somewhere like that.

E [MOTHER]: Okay. No, I don't have any -- I don't have an objection --

JUDGE HAIGH: Do you support it?

[MOTHER]: (Confers aside). Yes -- I'm fairly neutral, I guess, yes.

JUDGE HAIGH: Okay. (Pause). And what is the Guardian's view?

F MS WILSON: Your Honour, the Guardian is very concerned by the application of the journalist. The Guardian has considered rule 27.11, paragraph (3) of the --

JUDGE HAIGH: Just let me catch it, hang on --

MS WILSON: Family Procedure Rules.

G JUDGE HAIGH: Let me just get to it please.

MS WILSON: Of course, your Honour. (Pause). For the benefit of -- your Honour, whilst you are bringing that up in front of you, perhaps for the benefit of the father, although I acknowledge he is represented, but also the mother: Paragraph 27.11 deals with

H attendance at private hearings, of course this is one of those, and the rule applies when proceedings are held in private. A number of exceptions are listed, but those do not apply in this case.

A When this rule applies, no person shall be present during a hearing, other than: And then, it gives a list, and of course one of those is a duly accredited representative of news gathering and reporting organisations, or a duly authorised lawyer attending for journalistic purposes.

B It would be (f) that would apply, in my submission, in this case. And subparagraph (iii), your Honour, as the court will be aware, says this:

C "At any stage of the proceedings the court may direct that persons within paragraph 2(f)", that I have just highlighted, "shall not attend the proceedings or any part of them where satisfied that (a) this is necessary, firstly in the interests of any child concerned in or concerned with the proceedings, for the safety or protection of a party or witness in the proceedings or a person connected with such a witness, or for the orderly conduct of proceedings, or that justice will otherwise be impeded or prejudiced".

D I have of course discussed that particular rule with my client the Guardian, who had already expressed some concern without specifically being referred to that provision.

E The concern is this: This is a particularly -- firstly, this is a private case, so that rule applies. This is a particularly sensitive and complex case, your Honour, involving allegations or an allegation by the father of alienating behaviour by the mother, an application for change of residence by the father. The Guardian's position is that certainly for the parties the next few days will be particularly -- I use the phrase "emotionally charged" for both parents. I acknowledge that the father now has legal representation, the mother does not.

F The Guardian has considered the welfare of the child in this matter, which is of course the court's paramount concern here. The Guardian is concerned for [child]'s general wellbeing, now but in the future as well, in terms of a journalist reporting, potentially reporting on this matter. And the journalist as well having access to the bundle in this case, that is of a concern to the Guardian. There are expert reports within that bundle. There is of course -- by its nature it is confidential information.

G The Guardian is concerned about the potential for harm in the future to [child] if such an article might be written that [they] may have access to, despite anonymisation.

H I say despite anonymisation because of course certain details will still be written about.

It is a concern to the Guardian the very last sentence -- whilst perhaps the court is not aware of precisely what the journalist in question means, but the last sentence earlier referred to, that the initial request is in anticipation of an application to lift the reporting

A restrictions also causes the Guardian some concern about perhaps the reasons for this particular application to this particular case. As I say, the Guardian would have some concern with the journalist having access to the bundle as well, with the statements from the parties, and all the information that is contained therein.

B It is of course a different sphere to a judgment being prepared by this court of course with consideration by this court being given to its decision and what is being written. Perhaps the risk is more for the future in respect of [child], given [their] age at this point, but those are the observations on behalf of the Guardian I make, your Honour, having considered the court's powers under 27(11). I hear what my learned friend for the father says, I do not have anything particular to add to that at this stage.

C Can I assist you further?

JUDGE HAIGH: No, thank you. (Pause). The conclusion that I have come to is that whilst accredited press representatives of news gathering organisations or reporting organisations are an exception to attendance at hearings that are otherwise private, I have D real concerns about the application that has been made here. And I have to be satisfied before I exclude their attendance, because they are entitled to attend -- I have to be satisfied that it is necessary in the interests of the child.

E Why do I think so here? First, this was an unusual application. It was made or filed at the court 8.30 am this morning, the first day of the hearing. From a journalist who has a press card, no question about that, but whose email address was a film company address, I think from memory it was Primate Films. She does not appear to be F linked to press organisations, she may have a journalistic interest in this area of law, who knows, but she does not appear to be linked with journalists, with a news organisation. The timing was very, very unusual. I only saw it, as I said earlier this morning, at a minute to 10, although checking the original email I think it landed in the court building G at about 8.30. Now, I would have expected responsible news gathering organisations, journalists and the like, interested in this particular case or any of the issues arising from this case, to have been rather better prepared than that.

H So, it is a red flag to me. Particularly as both parents, when I asked them this morning, expressed surprise about the contact: Father surprised to the extent of opposition to it, his position is that I should not -- or rather his position is that I should exercise my power to exclude the press officer requesting. Mother's position was a little

A different, less surprised, and in terms of excluding her or giving her permission to be here and seeing the bundle she has not expressed a view one way or the other.

B As the parents know, this case involves me looking carefully at allegations of emotional harm through parental influence, described as parental alienation or, looked at from mum's perspective, whether father has failed to engage, connect with, and care for his [child], and is by accident or design himself responsible for the apparently traumatised relationship that exists between himself and his [child].

C Both parents know that is the issue, and the consequence is deeply serious, not just for the parents but for [child], serious for [child] because either scenario, as I have said this morning, carries emotional harm in its wake, which they both know, but it is not just for them, it is for the parents as well, because I will have to make findings on those allegations, and it is not going to be a comfortable or easy process for either of them.

D I have, as I said before everyone's submissions, a degree of scepticism about this development within the law. I think everyone is racing towards an elephant trap, underestimating the power of algorithms, social media and computers to penetrate the very careful attempts we make at anonymity in these cases at the moment. So concerned am I that I am firmly of the view that many of those making these decisions now, including parents, social commentators and the powers that be, may well in ten years time have buyer's remorse, but of course everyone will be gone by then, and it will be explained as a mistake made by earlier generations, sadly.

E I do not think sufficient attention is given to the effect of all of this upon children, particularly if anonymity is penetrated through jigsaw identification, or by developments in algorithms. My focus, as I hope these parents now clearly know, if they did not already, is on the welfare of [the child]. Has not asked for this. [They are *age*]. My duty is to protect [them]. I will give a written judgment in this case, I will hear submissions on whether it should be published. But I am not prepared to open the door to the press. I do not think it is in [their] interests to do so, quite the contrary. I think it is in the interests of [the child] for [them] not to be in this case.

G Not because there is any fear of the court process or the issues in this case, that will all be covered comprehensively in a written judgment, and you will understand my decision, whether you like it or you dislike it. And, if you want, you can consider appealing it, that is what the Court of Appeal is there to do, if you wish.

(Pause). Okay. So, we will communicate with the press representative, and say
A that I have made a decision to exclude them.

MS WILSON: Yes.

JUDGE HAIGH: What I will probably have to do is give them an option to renew their
application in fact at court, because of course I have not heard from them.

B MS WILSON: Yes.

JUDGE HAIGH: And it would be wrong to make a decision without hearing from them.
That is the decision I have made with you now, but they should be given the opportunity
to present the application orally at court. I am going to assume they are some distance
C away, so I will say if they want to make it in person, 10 o'clock tomorrow morning?

MULTIPLE VOICES: Yes.

JUDGE HAIGH: (Pause). Okay. The only other thing that crosses my mind is whether
we -- that part of the case should be remote. Is it too much to ask them to come here?
D Any views on that?

MS WILSON: Your Honour no, depending on how speedily the decision on the face of the
current application is made, provided that sufficient notice can be given to this court --

JUDGE HAIGH: I mean, what I could do --

E MS WILSON: -- if they did want to renew it.

JUDGE HAIGH: What I could do is say that if she wants to renew it, I will hear it later on at
the close of evidence today. I suppose she is going to say, "Well, I haven't heard that
first bit of the evidence then", isn't she? She is going to get cross about that. Well, why
F don't we say this then: I will convene a Teams hearing 2 o'clock, and allow her to renew
her application then?

MS WILSON: So be it, your Honour, yes.

JUDGE HAIGH: Okay. And do not assume I am not capable of changing my mind when I
G hear from other people, I am. But I think you all ought to have heard what I have to say
about it before we bring her in. That okay?

MS WILSON: Your Honour, yes, just to confirm the court is going to communicate that to
the --

H JUDGE HAIGH: Yes.

MS WILSON: -- journalist? I have not --

JUDGE HAIGH: So, we will do that --

MS WILSON: -- seen any communication from her.

JUDGE HAIGH: We will do that by Teams at 2 pm.

A MS WILSON: Your Honour, yes.

JUDGE HAIGH: All right. Good, thank you very much.

[MOTHER]: Just I have one question --

JUDGE HAIGH: Yes.

B [MOTHER]: -- is the transcript to be made available to everybody? The --

JUDGE HAIGH: Which trans --

[MOTHER]: The transcript --

MS SHIELD: Your Honour, I have --

C [MOTHER]: -- which has been submitted.

MS SHIELD: I need to check [the mother's] email address, because I sent it at 11.45.

[MOTHER]: Okay.

MS SHIELD: So, perhaps outside of court I can double-check I have got the right address.

D JUDGE HAIGH: Yes.

[MOTHER]: Okay.

MS WILSON: Yes, your Honour, I am sure that bit of housekeeping can be dealt with
outside. I have received copies from my learned friend, so I am sure between the two of
E us a --

JUDGE HAIGH: Yes.

MS WILSON: -- copy can be sent --

JUDGE HAIGH: Yes.

F MS WILSON: -- in terms of the transcript from the previous final hearing.

JUDGE HAIGH: Yes, okay. Very good. Thank you.

MS WILSON: Thank you, your Honour.

G (The luncheon adjournment)

THE CLERK OF THE COURT: Just (inaudible).

THE JOURNALIST: *(Transcriber note: Through link, some occasional inaudibility and*
H *overspeaking as a consequence).* Yes, I can hear you now, can you hear me?

THE CLERK OF THE COURT: Yes, thank you.

JUDGE HAIGH: Okay, has she joined?

THE CLERK OF THE COURT: Yes.

A JUDGE HAIGH: (Pause). Okay, good afternoon. I am hoping everyone can hear me and -- if you cannot even see me. Just looking at my screen, I can see my clerk. Ms Martin, I cannot see you, it is possibly because you need to speak next, and then you will appear on my screen, I hope, if your video is engaged. Is that all right? Could you say hello?

THE JOURNALIST: (No response).

B JUDGE HAIGH: Oh dear. I am not even sure she can hear me.

THE CLERK OF THE COURT: Ms Martin?

JUDGE HAIGH: Well, that is strange because we could hear her a second ago.

THE CLERK OF THE COURT: (Inaudible) your microphone ...

C JUDGE HAIGH: Do you want to try my -- ?

THE CLERK OF THE COURT: Try your (inaudible).

JUDGE HAIGH: Okay, let's try a different tack. We are going to try a different computer and a different microphone.

D MS WILSON: Your Honour, she has put a chat message on saying, "I can hear you".

JUDGE HAIGH: Oh, well, that is good news. Mr Martin, can you hear me now?

THE JOURNALIST: Yes, I can, your Honour.

JUDGE HAIGH: Brilliant. I think we have got a --

E THE JOURNALIST: Thank you.

JUDGE HAIGH: I think we have got a computer that works.

THE JOURNALIST: I am really sorry for the problems I am causing here today.

JUDGE HAIGH: It is okay, no, it is not a problem, do not worry about that at all. We just

F wanted to get it working, and we just had difficulty hearing you, and in fact still have difficulty seeing you, I do not know if you can turn your --

THE JOURNALIST: Well, I think the camera is turned off for me at your end, it is not

anything that I am doing or not doing, it says that I cannot -- it's -- there's not even an

G option to unlock it, for some reason, on this particular Teams App, but I think you have probably got a copy of my press card, so you will hopefully -- imagination -- use your imagination to work out what I look like from behind this screen.

JUDGE HAIGH: Yes, I will stick a picture of it on the computer so that -- I do not know if

H you can see me, can you see me, or at least --

THE JOURNALIST: I can see you --

JUDGE HAIGH: Right.

A THE JOURNALIST: -- I can see part of the courtroom, and I can see your clerk, who has been very helpful.

JUDGE HAIGH: Good, okay, well, what you cannot possibly see are the other participants.

THE JOURNALIST: Okay.

JUDGE HAIGH: Just so that you know, what we have got here is mum and dad.

B THE JOURNALIST: Yes.

JUDGE HAIGH: Dad is here with Ms Shield, who is his counsel, who you might just have caught a fleeting glance of, she is the lady with blonde hair.

THE JOURNALIST: Yes, I can see her --

C JUDGE HAIGH: The Guardian is not at the moment with us, but she is back in soon, and she is represented by Ms Wilson. Mum is here with her professional McKenzie friend, a lady called Katie Baker-McGowan, and I do not think you can see them at all. And my name is Mark Haigh, I am a circuit judge here in Manchester, and I am the conducting and allocated judge in this case.

D So, that is the sort of introductions done, and what I was curious just to really understand from your perspective are these things: It may be that others have questions that they might have, I do not know, but these are the ones that cross my mind:

E You said in your email that you were wanting to observe, research and ascertain factual information. What is the research on?

THE JOURNALIST: So, for the last -- I think, like many other journalists, the last few years, we have been following the family court, I have attended hearings in front of

F His Honour -- Justice McFarlane, I have been looking at section 46(?) (inaudible) children, I have been looking at inducing fabricated illness cases, a whole number of issues, and essentially some of them I have reported on, but largely it was about observation going on to work out whether something is a matter that I might make an application (inaudible) reporting restrictions to be lifted. But without knowing the

G substance of the case, I can't know whether that in fact is such a case that I would ask for such an application to be heard. So --

JUDGE HAIGH: Yes, that was really my second question: Out of the --

H THE JOURNALIST: Yes.

JUDGE HAIGH: -- 3,000 odd cases that drift through the Manchester court, why --

THE JOURNALIST: This one.

JUDGE HAIGH: -- court 34 on Monday morning?

A THE JOURNALIST: Okay, so, I looked at this yesterday, I regularly look at what's on the list around the country, I spend a lot of time in Manchester working. Unfortunately, at the moment I can't, because [redacted – personal information]. My business partner is based in Manchester, he is a journalist called Matt O'Donoghue, who you may well know, he used to be with (inaudible) Reports, so a lot of the work that we carry out is based in the north-west region.

B This case was listed on the CourtServe for a timing of five and a half hours (inaudible) final hearing, and it looked like something that might be of interest. And essentially, your Honour, I am not asking to report anything at this point -- at this stage.

C I asked to look at the documents, because that is what I have been granted in many other court hearings, but also it gives me a chance to actually follow the case in real time. I mean, I would preferably be there in person, because I have something in the north-west that I am working on over the weekend, but I simply can't be, as I am on carer -- full-time carer duties at the moment.

D JUDGE HAIGH: No, no, I understand everything you have said about that.

THE JOURNALIST: Yes.

E JUDGE HAIGH: It was really this case, so are you saying to me it was just a ... pure coincidence?

THE JOURNALIST: Yes, it's a coincidence. I mean, there are lots and lots of cases that I have been observing from Portsmouth, in London, Staffordshire, all over the country. I mean, you know, as a journalist, you can observe. I work for a number of outlets, I have worked in-house at ITN, Channel 4 News, I -- largely (inaudible) a lot of research, and I also work for newspapers as well, but I don't --

F JUDGE HAIGH: So, there is nothing -- (overspeaking across the link) -- yes -- sorry, say that again.

G THE JOURNALIST: Without knowing what this case presents, I can't say whether this is something that I would be looking to publish anything.

JUDGE HAIGH: Right, and how long did you say the case was listed to last for?

THE JOURNALIST: Five and a half hours or something, it says today.

H JUDGE HAIGH: Well, that is today.

THE JOURNALIST: Yes, so it is a final hearing, isn't it? It is a -- is it a final hearing?

JUDGE HAIGH: Yes, it is, yes, yes, four days.

THE JOURNALIST: Right, okay.

JUDGE HAIGH: Are you wanting to listen to it for four days?

A THE JOURNALIST: Yes, please.

JUDGE HAIGH: Okay. And you --

THE JOURNALIST: Is it possible that I might ask a colleague to come for me, if I am required to [redacted – personal information]? That would be --

B JUDGE HAIGH: Yes.

THE JOURNALIST: -- (inaudible) but at the moment (inaudible) sit and observe, your Honour.

JUDGE HAIGH: Yes. And you know nothing --

C THE JOURNALIST: The --

JUDGE HAIGH: -- about the case? And have had no --

THE JOURNALIST: I don't know anything about the case, no.

JUDGE HAIGH: And have had no communication with any of the parties?

D THE JOURNALIST: No, I haven't had any communication with the parties, your Honour.

JUDGE HAIGH: Right.

THE JOURNALIST: (Inaudible) anybody who is acting for the parties or anything.

JUDGE HAIGH: Right. And it could be, I suppose, from your perspective, a monumental

E waste of four days of your life.

THE JOURNALIST: Well, unfortunately (inaudible) service that tends to be a lifestyle choice, (inaudible) or something, but I can sit in court and get paid. Quite often, your Honour, I turn up to a hearing, and sit there for quite some time, and there is

F actually nothing of substance or interest --

JUDGE HAIGH: Yes.

THE JOURNALIST: -- or public interest that I would ever consider ...

JUDGE HAIGH: Okay.

G THE JOURNALIST: -- looking at, but at the moment, you know, without knowing the case, I might not need to be here for four days, I might start (inaudible) and say, "Well, I'm really sorry, but I don't think this is going to be something that I am -- I want to pursue".

JUDGE HAIGH: Okay. (Pause). Good, okay. I think my last question is this.

H THE JOURNALIST: Yes.

JUDGE HAIGH: Why so late? I mean, the email came in at 8.30 this morning --

THE JOURNALIST: Because I was -- why so late? Well, CourtServe doesn't list very much until the day before, I looked yesterday, thought, you know, "There's a final hearing

A there", there is a lot of encouragement amongst the journalist community to sit in and observe these hearings whilst the transparency project is in its ... You know, in the form that it's in now ... but -- I am sorry, there is something flying(?) in the background here, I do apologise.

JUDGE HAIGH: Do not worry.

B THE JOURNALIST: You know, we(?) are encouraging one(?) another(?) to sit in on hearings and see what is going on. Without observing, we cannot know what is possibly going on in these -- such hearings. And if you have a spare couple of days, which I certainly have this week, then it's worth sitting in and listening to what's happening and

C gaining insights of court (inaudible).

JUDGE HAIGH: Okay, thank you. That is helpful, thank you very much. Now, I do not know if any of the other parties have any questions they want to ask? (Pause). If -- well, it is dad's application, so --

D MS SHIELD: Yes.

JUDGE HAIGH: -- I will ask Ms Shield first. Are there any questions you want to ask --

MS SHIELD: Your Honour, yes --

JUDGE HAIGH: -- of the journalist?

E MS SHIELD: -- there are. The journalist has referred to having undertaken research in the last few years, following courts, in relation to --

THE JOURNALIST: I can't hear --

MS SHIELD: You cannot hear me?

F THE JOURNALIST: -- I'm afraid.

JUDGE HAIGH: No, just pause, please, both of you pause. I think the reason for that is it is because the mike, it is probably operating off my machine, so what I might do is just turn it around, and ask you to keep your voice up.

G MS SHIELD: Yes. Is that better, Ms Martin? Can you hear me now? (Pause). Can you hear me now? (Pause). Ms Martin?

JUDGE HAIGH: Ms Martin, can you hear me?

THE JOURNALIST: Yes, I can hear you.

H JUDGE HAIGH: There seems to be a lot of noise at your end. I do not know -- are you alone in your room, or is someone with you --

THE JOURNALIST: Yes, I'm alone in my room, (inaudible) something outside, which I just moved, but it's not human.

JUDGE HAIGH: Right, okay.

A THE JOURNALIST: It's a very elderly dog that is (inaudible), I apologise.

JUDGE HAIGH: Do not worry, do not worry, do not worry. Look, I am going to turn my machine round in the hope that Ms Shield, and anyone else who has any questions of you, will communicate --

B MS SHIELD: Your Honour --

JUDGE HAIGH: -- it effectively by microphone --

MS SHIELD: -- perhaps I will state my question, and then, if Ms Martin cannot hear it, then whether your Honour can repeat it, but --

C JUDGE HAIGH: Well, can we just check whether she can hear you first --

MS SHIELD: Well, can you hear now?

THE JOURNALIST: I can hear you when you speak up like that, thank you.

MS SHIELD: Yes. Excellent, thank you. Ms Martin, I simply wanted to ask this question:

D That you have outlined to the court that you have undertaken research in the last few years, you have been following courts in relation to issues like removal of children, fabricated illnesses. Could you help me please with outlining whether you are looking into writing an article in respect of family matters, or is this something which you would wish to be looking to publish as a news item?

E THE JOURNALIST: (Pause). If you will bear with me, it is quite -- highly unusual to be asked what your intentions are, regarding a news outlet, or where I intend to publish or not publish. As you know, at the moment, I can't publish anything, and I am simply sat here observing. I don't currently have plans to publish anything around this case because I don't know the substance of the case, and it may not fit any of the matters that I am -- or any of the projects that I'm working on, currently.

F MS SHIELD: (Pause, confers aside). Ms Martin, my client is asking me to ask you whether **G** Mr O'Donoghue might have had any contact with any of the parties in this case or representatives --

THE JOURNALIST: No, Mr O'Donoghue doesn't even know I'm here this morning, we're not --

H MS SHIELD: I see.

THE JOURNALIST: We're not linked umbilically, and we work on our own projects within the organisation, in fact quite often we are working almost like a (inaudible) situation, where we don't know what the other one's working on.

MS SHIELD: All right, thank you.

A THE JOURNALIST: Thanks.

JUDGE HAIGH: Does mum have any questions?

[MOTHER]: Erm ... no.

JUDGE HAIGH: Are you sure?

B [MOTHER]: Erm ... yes, yes, I think everything's covered.

JUDGE HAIGH: You have no questions?

[MOTHER]: No.

JUDGE HAIGH: Okay, that is fine, any questions --

C MS WILSON: I --

JUDGE HAIGH: -- on behalf of the Guardian?

MS WILSON: I just have one question, your Honour: This is Ms Wilson. Ms Martin, you can probably -- well, see my jacket actually, although --

D THE JOURNALIST: I can see -- (overspeaking) --

MS WILSON: -- I will hold my laptop so that you do not have to look at my jacket. Can you hear me okay?

THE JOURNALIST: Sorry, hello?

E MS WILSON: Can you hear me, Ms Martin?

THE JOURNALIST: Yes, I can hear you, very clearly.

MS WILSON: Thank you. I am speaking into my laptop, so I think I am looking at you, although I am not looking at his Honour's --

F THE JOURNALIST: (Overspeaking) -- yes.

MS WILSON: -- computer at the moment. Just one question on behalf of the Guardian, please, Ms Martin: You just mentioned to my learned friend that you do not currently have plans to publish anything, it may not fit anyway with any of the projects you are working on. Are you able to give any assistance in terms of what areas those projects are focussing on at the moment?

G THE JOURNALIST: That would be in all honesty quite inappropriate for me to say what projects I'm working on, given that it's a ... you know ... It's just -- this is a very ...

H strange question for me to be asked as a journalist, as we keep things very close to our chests. However, not knowing the substance of this case, I won't (inaudible), until I hear the case, if I am allowed to, whether it fits anything that I'm working on.

A But I can say that I have researched section 46 including a case that was heard at
the Manchester Civil Justice Centre recently around FII. I am looking at child abduction
cases, and foreign jurisdictions, and Hague cases, for another project. I don't know
whether this case fits into any of those things, and essentially the way, you know, the
court is working, it's all-- you know, we are not (inaudible) the information, it's only if
B we sit in at the beginning, "Now, hang on a minute, this probably fits this", and --

C But, as I say, it would be highly unusual for me to say exactly, you know, what I'm
working on, but I have ... Yes, I have a number of cases that are quite different, but
again, as I say, I don't know what this case is about, all I know is it's a family court
hearing, and I don't currently have any plans. That could change over the course of this
week, though, if I ask for the reporting restrictions to be lifted, but right now I don't have
any (inaudible) -- it is simply to observe, and to understand and follow the case, as a
matter of research.

D MS WILSON: Thank you, Ms Martin. I have no further questions --

E THE JOURNALIST: Thank you. And sorry, might I add that of course obviously the parties
are anonymous, should I ever ask for anything, and the -- it is paramount to me, as a
journalist and somebody who works with some of the most vulnerable people and gives
them a voice, you know, I would absolutely go -- you know, there is absolutely no way I
would do anything to identify a child in proceedings. And I fully understand my
obligations as a journalist around that.

F JUDGE HAIGH: Okay. Well, that is very -- (overspeaking) -- that is very helpful, thank you
very much.

THE JOURNALIST: Yes.

G JUDGE HAIGH: So, I am going to give my decision now, and explain my reasons for it:

This morning at about 8.30 Suzanne Martin, who is an accredited press
representative, member of the press, I have seen the card, there is absolutely no issue
about that, applied to the court to participate by attending through Teams an attended
final hearing in a case that is listed before me today until Thursday. It is a private law
case, involving a single child where the dispute is essentially between the parents on a
number of issues.

H When I drew this request to the attention of all the parties this morning, and
canvassed their view on it, the positions of the parties were that in the case of mother she
was neutral about it, neither supported it nor opposed it; in the case of father he opposed

it; and in the case of the Guardian, who represents the interests of the child, they opposed it.

A

I therefore listed the application to be heard this afternoon, as it has been, inviting Suzanne to join us through Teams, which she has done, and she has very helpfully explained her position, and that is this: She has a research interest in family law generally, not this case, or indeed the issues in this case because, as she frankly said to me, she has no idea what the issues in this case are. But she has an interest in family law generally, and has spent at least some of her time, as she is entitled to do, as an accredited representative, listening to the family law cases.

B

When she was asked specifically whether she intended to publish any articles or other means of communication, she said that this was something that she had not been asked before, and felt it was inappropriate to answer. I have to say that is not entirely consistent with the transparency project, but I understand how journalists wish to protect the work that they may be conducting at any moment in time.

C

D

The rule that is engaged on these applications is rule 27.11 of the Family Procedure Rules 2010, and that sets out firstly that these hearings are private. Why are they private? Because they concern people's personal lives, and people have a legitimate expectation to a right of privacy. All private law children applications have immense sensitivities, as this one does, involving children who sadly are involved in these proceedings, through no choice of their own. Sadly, as so often happens, they are the unwilling participants.

E

And that is the essential reason why these proceedings are private. I know it is fashionable to describe the family court as a secret court, it is not secret. Everything that happens in this court is seen, heard, and considered, openly and transparently by all the relevant people who need to know, and the professionals. And insofar as errors, if they do occur in this court, they are corrected by the Court of Appeal.

F

G

And so, I do not accept the proposition that the family court is somehow a secret court. It is a private court that deals with the most intimate and sensitive aspects of the lives of the people who have the misfortune to use it, and we must always remember that.

H

The rules provide, in subparagraph (2) of 27.11, as to who shall be present, and they include the parties, professionals, and, it must be said, duly accredited press

representatives of which Suzanne is one, and so the starting point is that she is entitled to attend.

But the starting point is not the end point. What the court has to do in every case is to consider, as is required in subparagraph (3), whether it should direct that any of the persons mentioned in subparagraph (2) should not attend the proceedings, if it is satisfied that it is in the interests of the child concerned so to order, and I do in this case.

My responsibility is to the child. I do not consider that any of the welfare issues that concern this case are a matter of press or public interest. They concern this family and the particular concerns, anxieties and worries of this family. I bear in mind the age of this child, who has no say in what is being asked of by all the adults in this case in this application. And I remember and recognise [their] right to privacy. I bear in mind everything that Suzanne has said about anonymity. I simply lay this marker down:

Anonymity works at the moment, there or thereabouts, it is vulnerable to jigsaw identification, but it just about works. Question: With the development of algorithms and the development of IT and social media, will the answer to that question be the same in ten years time, or will the anonymity provisions of reporting of children cases be penetrated and their private details then freely available on the internet?

I think there is a very significant risk that that will happen and that those who support this development will be unable, impotent, to prevent that happening. And it will be a tragedy for all those concerned, not just the adults, whose privacy will be there invaded for all to see, but also the children, who are sadly innocent of all this.

I have to remember that possibility, and I have to think of the issues in this case, and to think in a way that Suzanne cannot, because she does not know the issues, whether there is anything that really could help her and the research interest that she has expressed in Hague Convention cases, removals, and the like, and I do not believe there is. And I believe there is a strong interest in this child retaining the privacy of these proceedings free from the prospect of press involvement.

So, for those reasons I am satisfied that subsection (3A)(i) of 27.11 of the FPR is engaged, and that the application in this case is refused. Okay.

THE JOURNALIST: Thank you, your Honour.

JUDGE HAIGH: Thank you very much for joining us, and I wish you well with your research and work.

THE JOURNALIST: Thank you.

A JUDGE HAIGH: Bye bye now. (Pause). Okay, now, where are we with the Guardian? Is she still missing in action?

MS WILSON: Your Honour, she is. I apologise, I did look down, because she did try to call me just before the journalist Ms Martin joined.

JUDGE HAIGH: Okay.

B MS WILSON: So, I perhaps could step out or see where --

JUDGE HAIGH: Do you want me to stand --

MS WILSON: -- she is.

JUDGE HAIGH: -- it down for a few minutes? Just --

C MS WILSON: Perhaps a few minutes, your Honour, if that were --

JUDGE HAIGH: Get an expected time of arrival. I do not want to start without her.

MS WILSON: No. No, and it is -- in my submission, it is vitally important that the Guardian hears --

D JUDGE HAIGH: Listens to everything.

MS WILSON: -- both of the --

JUDGE HAIGH: Yes.

MS WILSON: -- evidence of the parties --

E JUDGE HAIGH: Yes.

MS WILSON: -- yes.

JUDGE HAIGH: Yes, I agree, completely.

MS WILSON: Your Honour, yes, if I may take those instructions. I mean, of course she may well be driving, but she may be able to alert me as to her location --

F JUDGE HAIGH: Yes.

MS WILSON: -- and I can take instructions, and then return in short order --

JUDGE HAIGH: That is absolutely fine. Thank you.

G MS WILSON: Your Honour, thank you.

JUDGE HAIGH: Let's retire for a few minutes.

H (A short adjournment)

JUDGE HAIGH: A couple missing, or one missing --

MS SHIELD: One missing, your Honour. Ms Wilson has just literally now popped out to take a call from the Guardian.

JUDGE HAIGH: Ah, right, okay. It is okay, we will wait, do not worry.

A MS WILSON: (Pause, enters). I do apologise, your Honour --

JUDGE HAIGH: Now, do not worry at all --

MS WILSON: -- just as your clerk went out, as I anticipated it may happen, I just received a

B call. The Guardian will be a few minutes, just a few minutes, but she is in Manchester now, so she is back, as it were.

JUDGE HAIGH: Right.

MS WILSON: She just needs to park up and come in the building.

JUDGE HAIGH: Yes.

C MS WILSON: Your Honour, perhaps just -- it is 3.05, I would like to be able to put down on paper the Guardian's visit with [the child] this afternoon --

JUDGE HAIGH: I think today is disappearing in front of our eyes, and I think it would be sensible to start tomorrow early --

D MS WILSON: Yes.

JUDGE HAIGH: -- if you do not mind?

MS WILSON: No.

MS SHIELD: No.

E JUDGE HAIGH: 9 o'clock. Let's get started with the ambition of trying to finish dad by 1 o'clock. If we do not succeed, we do not succeed, do not worry, I am not going to put anyone under any pressure. Get Dr Allwin in. Depending on how long he takes, he may not take long, I do not know, we will see. If we have not finished dad, we can finish dad

F off, just interject him between the two, and then just keep going.

MS WILSON: Your Honour, yes, I think that seems a sensible approach, particularly perhaps in light of the court's indication earlier that it would put some questions to the father on behalf of the mother, she may wish to take a minute this afternoon to write

G some questions down if she does want to do that, and she can hand those up tomorrow --

JUDGE HAIGH: Yes.

MS WILSON: -- first thing. It gives the mother a little bit of time to do that this afternoon.

I can also then be in a position first thing, your Honour, to pass a brief position statement

H around from the Guardian, as a result of her visit this afternoon --

JUDGE HAIGH: That is really helpful.

MS WILSON: If I may--

JUDGE HAIGH: That is really helpful.

MS WILSON: -- have that permission?

A JUDGE HAIGH: Thank you. Everyone comfortable with that?

MS SHIELD: Yes.

JUDGE HAIGH: Good.

[MOTHER]: I do have a question.

B JUDGE HAIGH: Yes.

[MOTHER]: My [relative], [name given], was on the list of witnesses --

JUDGE HAIGH: Witnesses, yes.

[MOTHER]: -- being called, is that still the case --

C JUDGE HAIGH: She is sort of after you, unless everyone agrees her evidence.

[MOTHER]: I need to know when to ask --

JUDGE HAIGH: Yes.

[MOTHER]: -- her to come.

D JUDGE HAIGH: Okay, well, Milson is Wednesday morning, isn't he?

MS WILSON: Your Honour, yes. Dr Allwin is tomorrow afternoon, Dr Milson is
Wednesday morning, either 10 or 10.30. And I would expect --

JUDGE HAIGH: Probably Thursday morning, do you think? Because she is going to be the
E very last witness, isn't she?

MS WILSON: She will be. I do understand --

JUDGE HAIGH: Oh no, the Guardian is after her.

MS WILSON: The Guardian, yes.

F MS SHIELD: Yes.

JUDGE HAIGH: The Guardian, yes.

MS WILSON: Perhaps -- I do understand from my learned friend that that statement is to be
challenged, and so she will be required. There is also a statement from the paternal
G [relative], your Honour, and so I would expect the paternal [relative] --

JUDGE HAIGH: That is probably tomorrow --

MS WILSON: -- to attend tomorrow -- yes. Your Honour, so, perhaps I would expect -- I
would expect the mother's evidence to be during the course of Wednesday afternoon,
H and so perhaps if the maternal [relative] arrives early Thursday morning, to be dealt with
first, and then the Guardian can proceed straightaway after the maternal [relative]. I do
not -- I realise my learned friend wishes to challenge that evidence, I do not think it will
be particularly lengthy.

MS SHIELD: No.

A MS WILSON: In my--

MS SHIELD: I (inaudible) --

MS WILSON: -- submission. Unless the court would wish to have the maternal [relative] on standby for Wednesday afternoon --

B JUDGE HAIGH: I am just thinking --

MS WILSON: -- to finish that evidence.

JUDGE HAIGH: And maybe even putting her before mum, because it will mean that we can give her certainty on the timing --

C MS WILSON: Yes.

JUDGE HAIGH: -- and get her away.

MS WILSON: I am entirely --

JUDGE HAIGH: Because we know --

D MS WILSON: -- in the court's hands, your Honour.

JUDGE HAIGH: We know Milson is first thing.

MS WILSON: Yes.

JUDGE HAIGH: How long is he going to be? Best scenario probably an hour, worst

E scenario a couple.

MS WILSON: I expect so, your Honour. Well, perhaps --

JUDGE HAIGH: If we had her here for 12 o'clock, we may be able to get rid of her by lunchtime. If she came in the morning, we might be able to say to her, "Look, you're

F done, you can go by lunchtime". Does that sound like a plan?

[MOTHER]: Yes, so --

JUDGE HAIGH: Wednesday morning.

[MOTHER]: Wednesday morning ...

G JUDGE HAIGH: Sort of 11 o'clock. I mean, she can come with you if you want. 11 o'clock, on the basis --well, she can come whenever she wants, but on the basis she is probably not going to be called before 11 o'clock.

[MOTHER]: Yes.

H JUDGE HAIGH: But there is a high degree of probability she will be called before 1 --

[MOTHER]: Okay.

JUDGE HAIGH: Okay?

MS WILSON: Your Honour, yes, and then the ...

JUDGE HAIGH: And then, mum in the afternoon --

A MS WILSON: It would perhaps be hoped mum in the afternoon on Wednesday, and then
Guardian first thing Thursday morning, that will give certainly myself the opportunity to
take instructions from the Guardian after both of the parents' evidence.
JUDGE HAIGH: Yes, that sounds like a plan.

B [MOTHER]: May I ask -- this is the first time I have heard that paternal [relative] is
going to be attending --
JUDGE HAIGH: You have seen her statement --
[MOTHER]: -- giving -- yes, but --

C JUDGE HAIGH: She does not ask to.
[MOTHER]: Right.
JUDGE HAIGH: If all of you say, "I've read the statement. Do you know what? It is what it
is -- "

D [MOTHER]: Yes.
JUDGE HAIGH: " -- I've nothing to ask her", it --
[MOTHER]: I have no questions --
JUDGE HAIGH: -- can just go in.

E [MOTHER]: -- for --
JUDGE HAIGH: Right, okay. Does the Guardian have any questions?
MS WILSON: Having only seen that myself this morning, your Honour, I can perhaps
confirm as soon as she does arrive --

F JUDGE HAIGH: Yes, yes.
MS WILSON: -- and relay that to Ms Shield --
JUDGE HAIGH: Just let --
MS WILSON: Yes.

G JUDGE HAIGH: Just let dad's lawyers know, yes.
MS WILSON: I do understand she is up here with the father so she is not traveling any great
distance --
JUDGE HAIGH: Okay.

H MS WILSON: -- she has come up with the father --
JUDGE HAIGH: All right.
MS WILSON: -- as I understand it.

A

JUDGE HAIGH: Yes, we do not want people in the witness box avoidably. If it is agreed, it is agreed.

MS WILSON: Of course, your Honour, yes. So, 9 o'clock --

JUDGE HAIGH: That is really helpful, thank you.

MS WILSON: 9 o'clock tomorrow morning --

B

JUDGE HAIGH: So, 9 o'clock, bright eyed, bushy tailed, tomorrow morning, 9 o'clock please. Here for no later than 8.45, because we will start at 9 --

MS WILSON: Yes.

JUDGE HAIGH: -- all right?

C

MS WILSON: Thank you, your Honour.

JUDGE HAIGH: Good, thank you all very much.

D

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G

Marten Walsh Cherer hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.

H

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