

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

Between:

Re Glenn (Residence order application)

STEPHENS J

**Introduction**

[1] The child whom I shall for the purposes of this judgment call Glenn was born in 2004. He is therefore some 5 years old. His mother whom I shall call Catriona, is a British national, who was born and raised in Northern Ireland. She now lives in Northern Ireland and is unemployed though she previously worked earning a high salary in country ~A~. Glenn's father whom I shall call Aidan, is a national of country ~B~, who works in an outdoor environment in that country. Aidan and Catriona have been involved in protracted litigation throughout Glenn's life. The factual background to this case, which I do not intend to repeat, has been set out in the detailed and insightful judgments of a judge in country ~A~ dated 25 November 2005, 10 August 2006 and an undated judgment delivered in either September or October 2007.

[2] The applications for my present determination are:

- (a) An application by Aidan for a residence order in his favour.
- (b) An application by Aidan for a shared residence order.
- (c) An application by Aidan for a contact order.

All these applications were prompted by a complete breakdown in contact between Glenn and Aidan.

[3] Ms Walsh QC and Mr Magee appeared on behalf of Aidan, Mrs Keegan QC and Ms McGurk appeared on behalf of Catriona, Mr McGuigan appeared on behalf of the Official Solicitor representing Glenn.

[4] I have anonymised this judgment. The names used are not the real names of any of the individuals. The parties are requested to consider the terms of this judgment and to inform the Office of Care and Protection in writing within one week as to whether there is any reason why the judgment should not be published on the Court Service website or if it requires any further anonymisation prior to publication. If the Office is not so informed within that timescale then it will be submitted to the Library for publication in its present form.

[5] In any event I make it clear that nothing should be reported which would identify Glenn or any member of his extended family.

### **Historical perspective**

[6] I come to this case now years after this litigation commenced. I do not propose to set out an extensive summary of the history of these proceedings or of the judgments that have been given. Some of the views expressed in those previous judgments unfortunately are as correct now, in the light of subsequent events, as they were then. However some revisions are required. For instance it was not clear at an earlier stage as to whether the obstruction of contact between Glenn and his father by Catriona was deliberately motivated by a desire to break their bond.

[7] I will now set out some short references to the previous litigation and my findings in relation to those matters.

[8] In previous judgments the positives have been emphasised. I do so again expressing myself in somewhat different language. Glenn has the great good fortune to have two devoted parents. His parents come from different cultures and different backgrounds and accordingly Glenn is provided with enormous opportunities. I emphasise that there are aspects of each of his parent's characters and backgrounds that can enrich Glenn so that he becomes a whole man in himself polished and well-rounded. That he fulfils himself and in turn can fulfil others. It is also clear that Glenn has the ability to reap the benefit of the opportunities with which he is presented. He is open, warm and loving. There are many positives in this case upon which a stable future can be built. The way to that future is simple involving some very basic concepts applied on an almost universal basis.

[9] Again in previous judgments the potential for harm to Glenn has been emphasised. I do so again. Rather than working together, Aidan and Catriona have throughout Glenn's life been involved in conflict leading to

litigation conducted before no less than ten different judges in country ~A~ and three different judges in Northern Ireland. Social Services in Northern Ireland and their equivalent in country ~A~ have been involved and experts have advised. Senior counsel, junior counsel and solicitors all experienced in family law cases have also advised in Northern Ireland as have their equivalents in country ~A~. The case has been subjected to constant judicial case management. None of this or the passage of time has brought an end to the conflict or the litigation. Glenn's parents, Catriona and Aidan have devoted all their financial and a substantial part of their emotional resources to the ongoing conflict and litigation. Catriona for her part has spent approximately £375,000 in legal costs. Both parents are reduced from financial independence to dependence on the State and on friends. Harm has been done to both of them financially and emotionally. However they should excuse me for saying it is not that harm that causes me concern in this case. It is the harm to Glenn which has occurred and which will occur in the future if lessons are not learnt which motivates me. Again they should excuse me if I say that I am not concerned for them as to the problems that they are storing up for themselves when Glenn reaches adolescence, including the potential for him at that stage to reject both of them. I am however deeply concerned for Glenn's welfare and the potential for the enduring damage that he will suffer if he was caused to act in that way.

[10] On 10 May 2005, when Glenn was some ten months old, a judge in country ~A~ made a contact order in favour of Aidan, but the contact was to be observed by a social worker who could speak the language of country ~B~. Furthermore Glenn's nanny was also permitted to be present during contact. In the event the nanny was used by Catriona to observe the social worker who in turn was observing contact. Another judge in country ~A~ found that though Catriona absented herself from the house during contact, so that it could not be said that she was in any way interfering with it, that she was in her judgment controlling the situation tightly by employing such social workers or overseers of the contact who did the job in a way she wanted them to do it and she left (the nanny) with what appears to be clear instructions about the degree to which she should be involved during contact. I find that this element of unnecessary control is a continuing feature of this case.

[11] Catriona had concerns about abduction by Aidan. It is clear that there is now no concern about Aidan abducting Glenn and with the benefit of what is now known there should never have been any such concern. I consider that Catriona has used this concern in the past.

[12] Catriona had concerns about inappropriate remarks being made by Aidan to Glenn. There was never any real substance to those concerns.

[13] A judge in country ~A~ found that the mother was possessive and over anxious. The equivalent of a social worker in country ~A~ was of the view that

Catriona adopts a more over anxious and protective stance than is necessary which in turn alienates the father. A judge in country ~A~ found Catriona not only to be highly and unduly genuinely anxious but also controlling the situation and attempting, sadly, to depict the father in the worse possible light which she found was the light she sees him in. That judge went on to find that Catriona was an intelligent woman and that she acts in a subtle way. I agree that Catriona is an intelligent woman sensitive and able to make refined judgments and distinctions. That she acts indirectly and with a degree of ingenuity. Accordingly I endorse the finding that she is intelligent and acts in a subtle way. However with the passage of time I consider that consideration should be given to the question as to whether she is acting intentionally and deliberately.

[14] In her judgment dated 10 August 2006 a judge in country ~A~ referred to the differing accounts from Glenn's parents as to contact between Glenn and Aidan in June 2006. She recounted that Aidan reported the contact "as an unmitigated success save for periods of handover" and that Catriona reported "a hysterical and disturbed child ever since". Difficulties at handovers and differing accounts continue to be a feature in this case.

[15] A judge in country ~A~ found that the father lacked insight into the feelings of the mother and into the situation in general. He was also critical of the father for getting angry in front of Glenn, angry generally, and he found that the father's anger was affecting the mother and consequently the contact. I consider that some of these conclusions no longer apply. I will deal with the present position in this respect later in this judgment.

[16] Catriona has had concerns as to Aidan's conduct during contact with Glenn. One of the early observers of contact, the equivalent of a social worker, stated that Aidan:

"Is an extremely loving and trustworthy parent with good parenting skills quite capable of looking after and caring for his child. Glenn is always happy to see his father and is relaxed with him and returns his love."

This is the universal assessment of all of those who have observed Aidan's parenting skills during contact. It is also my assessment based on the evidence presented to me and the demeanour of Aidan as he gave his evidence. Aidan is not now and never has been a threat to Glenn. He is an excellent parent. He is honest and trustworthy.

### **Catriona's circumstances**

[17] In 2005 Catriona purchased a three bedroomed detached house in a sought after area of Northern Ireland for £495,000. There is an outstanding mortgage of £414,000. The mortgage repayments are paid in part by Social Security and in part by Catriona's parents who reside in the house. Catriona drives a relatively expensive car. The costs are paid by Catriona's parents. Glenn attends school and again the costs are paid by Catriona's parents. Her parents also contribute to the running costs of the house. Catriona does not work and is entirely financially dependent on the state and her family. She has a general idea that she would wish to seek employment but I do not consider that she has approached this with any vigour being content with her financial circumstances and the financial supports that she receives. Her life is focused primarily around Glenn and to a lesser though significant extent also around her parents. She has not developed any significant outside interests and she is emotionally content with these circumstances. Her self esteem and sense of worth does not require her to pursue a career, nor does it require her to move outside her own routines and environment.

[18] It is of note that whereas family money has been made available to maintain Catriona and Glenn in a house, to maintain their standard of living and to provide a car, and an education for Glenn, Catriona made no effort to obtain money from her family to contribute towards another essential component of Glenn's emotional development that is the cost of maintaining Glenn's contact with his father in country ~B~ and developing an understanding of the culture of country ~B~ by contributing to the costs of travel to Country ~B~. The consequence of not making any money available in this respect was quite apparent to Catriona namely that due to Aidan's extremely straightened financial circumstances contact in Country ~B~ could have come to an end. I consider that this was a desired consequence on the part of Catriona.

[19] In arriving at the conclusion that this was a desired consequence on the part of Catriona I have taken into account her demeanour in the witness box together with a number of other incidents both individually and cumulatively. I have also taken into account that she is emotionally dependent on Glenn. That emotional dependence was graphically demonstrated when Aidan returned with Glenn in August 2009 to meet Catriona in an airport. Aidan states, and I accept, that as they arrived in the arrivals lounge Catriona ran underneath the barrier and went down on to her knees to hug Glenn. That she began to cry and that Glenn looked very confused by her behaviour. Her emotional dependence on Glenn is also evidenced by the fact that if Glenn's residence was changed then Catriona would experience a significant grief reaction. Catriona's dependence on Glenn has provided her with a powerful motive to attempt to destroy the bond between Aidan and Glenn. I would also

observe that it has also led to a situation where Glenn has not been allowed by Catriona to develop in keeping with his age as evidenced by the delay in toilet training and the lack of consistent independent sleeping arrangements. In relation to toilet training Glenn has not reached ordinary milestones. There is no physiological reason for this. He has been held back by Catriona for reasons of her own attachment needs.

### **Harm to Glenn**

[20] The applications before me were prompted by a breakdown in contact between Glenn and his father as a result of allegations by Catriona that Glenn was suffering emotional and physical harm. It is common case that Glenn suffered both emotional and physical harm though initially there was a dispute as to the cause of that harm and there continued to be a dispute as to whether the emotional harm was significant.

[21] Catriona in a statement lodged on 5 February 2009 and in a statement dated 16 February 2009 sets out the distress being suffered by Glenn. She attributed this distress to the actions of Aidan but I find it was harm caused to Glenn by her in that she is Glenn's primary carer upon whom Glenn is dependent. She was compelling Glenn to choose her and to reject Aidan and Glenn was doing exactly that to his detriment.

[22] To determine the extent of the emotional harm I start with the description given by Catriona in the two statements referred to in the previous paragraph. Catriona described how, at the end of a contact with Aidan, Glenn had run to her and pressed herself into her body, clinging to her. That he cried incessantly in the car on the way home. That he begged Catriona not to send him to Country ~B~. That he said that when he was a big boy he was going to kill Aidan by shooting him. That Glenn was not only emotionally upset but also had a physical complaint in that he had a sore stomach. Catriona described the emotional upset as continuing with Glenn following Catriona everywhere, even to the bathroom and insisting that she came with him to the bathroom. That he had recurrent nightmares and required a lot of reassurance. Her account continues with a description as to how Glenn had said that he would like to push Aidan into a ditch and that Glenn would not even allow her to mention him going to Country ~B~.

[23] In April 2009 Glenn was interviewed by a most experienced social worker. From that interview one can also discern the extent of the emotional harm. Glenn initially told the social worker that he did not have a father. He then recounted that if he had telephone contact with his father his mother would be cross. I contrast these statements by Glenn with the reality that Glenn loves his father and obtains enormous benefit from contact with him.

[24] Again the extent of the harm can be discerned from the marked difference in the quality of telephone contact depending on where the telephone contact took place and who was present. In short such was the damage done to Glenn that he could not speak to his father in his mother's environment. The telephone contact in the presence of Catriona was extremely stilted whereas it was excellent in Social Services offices. Dr Leddy advises, and I accept, that Glenn finds it impossible to show his positive feelings for his father in front of his mother. That Glenn has developed the belief that his love for his father is intolerable for his mother to see.

[25] I conclude that Glenn has suffered and is suffering emotional distress and harm. I also conclude that the degree of harm is significant. That the present situation, if allowed by Catriona to continue, will result not only in ongoing significant emotional harm to Glenn but will also cause a particularly difficult time for Glenn during adolescence with further significant emotional harm being sustained by him at that stage. That it will also potentially seriously jeopardise future relationships that Glenn will wish to enter into as he matures with those relationships being tainted by feelings of confusion and guilt.

**Did Catriona intentionally set out to disrupt the relationship between Glenn and his father?**

[26] A question arises as to whether Catriona has intentionally set out to disrupt the relationship between Glenn and Aidan. Dr Leddy in her report dated 27 May 2009 advised that Catriona may have done so. In her evidence Dr Leddy did not consider that this was an important factor in the context of the decisions which have to be made in this case. Dr Leddy explained that if Catriona was intentionally and consciously attempting to bring about a certain result then that was a state of mind that could be changed. If on the other hand Catriona was acting irrationally as a result of undue anxiety then that also was a state of mind that could be changed. Similarly if Catriona is motivated by an overbearing dislike of Aidan and is in denial about this, then that is a further state of mind. In relation to this last state of mind she entered the qualification that given the length of time involved it is unlikely that Catriona will be able to change how she feels. However she can still change how she behaves.

[27] I consider that it is appropriate to determine whether Catriona is acting intentionally and consciously. The welfare checklist in Article 3(3) of the Children (NI) Order 1995 amongst other matters requires me to consider how capable Catriona is of meeting Glenn's needs. For instance if she was acting intentionally and consciously I consider that there is a greater chance that she will be able to change that attitude of mind in addition to changing her behaviour.

[28] I have formed an assessment that Catriona has been acting intentionally and consciously with a view to disrupting the bond between Aidan and Glenn. I have based that assessment on her demeanour in the witness box and a number of incidents, taken independently and also cumulatively. I have already given one example of the lack of provision of financial assistance with the desired consequence of bringing contact to an end in Country ~B~.

[29] I take as another example the example previously taken by a judge in country ~A~ of the routine book. Approximately 4 years ago that judge took the question of the routine book as one small example of the way in which Catriona had not co-operated with the spirit of another judge's order and has not co-operated with the spirit of his hopes. She recounted that Aidan had asked Catriona to provide a book in which she should explain Glenn's daily routine briefly but consistently so that he, when he sees Glenn, can deal with the question of his routine in a most effective way. The judge stated that this was an "excellent idea". Catriona explained that she did not have time to prepare such a book. The judge found that explanation unacceptable and found that Catriona could have and should have used a routine book to help Aidan to cope with Glenn in the course of his contact.

[30] One would have thought that thereafter Catriona would have used a routine book in order to improve the quality of Glenn's contact by informing Aidan of Glenn's routine. That is a step that she had been told ought to have taken prior to November 2005. It was a step aimed at improving matters for Glenn. However Catriona did not thereafter commence using a routine book.

[31] In October 2008 at a review before me Aidan continued to raise the question of a routine book. He made available a brand new and child appropriate routine book which I inspected. It had my complete endorsement and there was no suggestion in response that it should not be used. Again it was not.

[32] At the hearing before me Catriona initially professed that she would use a routine book though she thereafter entered a qualification in a generalised and unsubstantiated way that it should not become another platform for "digs at her parenting". I do not accept that as an acceptable explanation for not having used a routine book. If anything inappropriate is put in the book then there is a clear record of it. Indeed Catriona should appreciate that Aidan has views as to parenting and indeed his views have proved in two distinct areas of toilet training and sleeping arrangements to be objectively better than hers. Catriona then went on to say that she preferred texting to a routine book. Why text messages would prevent inappropriate, but perhaps briefer, "digs" at her parenting is unclear. In her interview with Dr Leddy Catriona stated that "she and Aidan must work together and move forward, and not just say the right thing in court." I have no doubt from her demeanour in the witness box and



the way in which this evidence unfolded that this was initially an attempt by Catriona to “say the right thing in court.” Then thereafter to attempt to justify her failure to use a routine book, on grounds which do not stand up to analysis. I consider that when giving her evidence initially endorsing the use of a routine book in reality she had an underlying intention not to do so. That she would continue to disrupt in this small way proper and appropriate arrangements for Glenn. I have given consideration as to her motive generally for this and for instance as to whether this was done by virtue of her own view that she was better placed than the court to make such decisions or because she wished to unsettle Aidan and disrupt Glenn’s routines as a part of an overall disruption of the relationship between Aidan and Glenn. From her demeanour and generally from this and a whole series of other individual matters I have formed a general overall unfavourable impression of Catriona’s motives. I consider that this was deliberate with the aim of disrupting the relationship.

[33] Another example of this ongoing disruption is the incident in relation to the bag prepared by Catriona for Glenn for a recent contact to take place in Country ~B~. Aidan came by plane to collect Glenn and wished him to only have hand luggage to facilitate a quick turn around. I am satisfied that Catriona knew this and then packed a bag which would have to be separately checked in and furthermore that she chose a colour of bag deliberately knowing that Aidan would react both to the bag and to its colour. It is obvious that Aidan should not have reacted in front of Glenn. If a reaction could not be resisted then it should not have been in front of Glenn and it should have been proportionate. However I consider that Catriona is in the words of the judge in country ~A~ capable of acting in “subtle ways.” I consider that Catriona has insight into how Aidan will react. I find that she sought on this occasion to and did in fact provoke a response. In that respect she bears the greater degree of responsibility for this incident which resulted in the bag being unpacked by Aidan in front of Glenn and his parents engaging in a dispute in front of him in relation to it.

[34] I find that the breakdown in contact between Glenn and his father was deliberately and intentionally caused by Catriona. I find that Glenn has suffered and is at risk of suffering significant emotional harm.

### **Glenn’s development apart from the disruption of his relationship with his father.**

[35] In relation to Glenn’s development apart from the disruption of his relationship with his father Glenn has made good progress socially, emotionally and educationally. He is a bright intelligent boy who is generally happy. The significant harm that has been occasioned to Glenn has to be seen in that context but in entering that qualification that is not to underestimate the harm which he has suffered and is at risk of suffering. In particular

adolescence could be a particularly difficult time for Glenn, with him displaying angry and rejecting behaviour towards his mother and the potential loss of his relationship with his father. Those losses have also to be seen in the context that Glenn has no siblings.

### **Legal principles**

[36] In determining the applications before me I seek to apply the course which is in the best interests of Glenn whose welfare is the court's paramount consideration. I have particular regard to the matters set out in Article 3 (3) of the Children (Northern Ireland) Order 1995.

### **Statement of the general outcome of the applications**

[37] I start by posing the question as to whether the outcome of these proceedings will bring about an end to conflict and litigation. In order for this to be the last chapter the overwhelming requirement is that there should be acceptance on behalf of and a fundamental shift in behaviour by, Catriona. She has been and has intended to be obstructive of Aidan's involvement in Glenn's life. There should be no recurrence of that in the future. If there is a recurrence or if she cannot manage to promote good contact, direct and indirect, between Glenn and Aidan, then a change of Glenn's placement should be seen as a possibility and might result particularly bearing in mind that I accept the evidence of Dr Leddy that an older child, for instance a child of 8, with increasing maturity and ability to communicate, is better able to manage separation from his main attachment figure than a younger child. Such is the nature of this case and such is Catriona's awareness of the interfaces that occur between different concepts that I have to make it clear that this warning should not be used by Catriona against Aidan. I will closely analyse any future suggestion on her part that despite all her best efforts that it was Aidan who caused difficulties so that he could accuse her of not heeding this warning thereby attempting to secure the result of Glenn coming to live with him in Country ~B~. The positive way forward is for Catriona to realise that the more she involves Aidan in Glenn's life, the more generous she is as to direct and indirect contact, the more that she rehabilitates Aidan in her wider family circle, the more solicitous she is for the concerns of Aidan, the more that she promotes the country ~B's~ aspects of Glenn's heritage, and the more that she promotes Glenn's involvement in or at least appreciation of the outdoor life that Aidan leads, then the more secure Glenn will be in his placement with her. I also emphasise that there certainly should not be a repeat of the wholly unacceptable pressures she has been placing on Glenn and the significant harm that she has caused to him.

[38] For his part Aidan should address a number of issues but in outlining them I make it clear that I do not consider them to be the major issues in this case. Indeed some of them have been used by Catriona to impede contact

between Glenn and Aidan, and an example of that is the use by Catriona of Aidan's inability on occasions not to react. I also consider that Catriona has used the interface between the respective characters, abilities and failings of herself and Aidan as a justification, relying on his failings, for the concept that she cannot trust Aidan and that the way forward is for a mutual building of trust. Any list of failings by or on behalf of Aidan is taken out of proportion by Catriona and used to promote the concept that Aidan has to change so that she can trust him and that until he changes there will not be a sufficient element of trust necessary to achieve proper arrangements for contact. Subject to that qualification various ways have been identified in which Aidan can assist. He should seek to acquire a number of skills. He should seek to learn not to react. He should seek to be less abrupt. He should make it clear that he will wholeheartedly and unequivocally accept and work towards fulfilling the future plans set out in this judgment. That plan does not involve Glenn going to live in Country ~B~ nor does it involve Glenn being educated in a Country ~B~ school, nor does it involve a change of Glenn's primary carer. Glenn, staying in Northern Ireland, can and should learn about the culture of country ~B~. However Aidan should appreciate the limits on this and the inevitability that Glenn will not be immersed in the culture of country ~B~ in the same way that he would have been if Glenn lived in Country ~B~ and attended a Country ~B~ school. Aidan should not have unrealistic expectations as to what Glenn can achieve by way of acquiring every aspect of the culture of country ~B~. Aidan should make Glenn and his primary carer secure in Glenn's placement in Northern Ireland subject only to the matters contained in the warning that I have given to Catriona. He should plan for the whole of Glenn's childhood and schooling being in Northern Ireland.

[39] One of the interfaces that has been used by Catriona in this case is that of the balance between the benefits of contact between Glenn and his father on the one hand and the inconvenience of that contact to Glenn on the other. It is an aspect of Glenn's life that to achieve the enormous short and long term benefits of having a relationship with his father, his father's extended family and learning about the culture of country ~B~ in a substantive manner, he is going to be inconvenienced. For instance he is going to have to travel to Country ~B~ at times when perhaps he would prefer to stay in Northern Ireland. His contact with his father is going to disrupt a whole range of other arrangements in Northern Ireland. At his age Glenn will not be able to weigh the loss of the short term benefits against the long term gains. To date Catriona, who can, but chooses not to, appreciate the overwhelming benefit of the long term gains, has placed far too much emphasis on short term inconveniences to Glenn. Throughout her evidence I gathered the impression that chance arrangements in Northern Ireland had a greater degree of priority than contact for Glenn with Aidan. It is an aspect of Glenn's character that he is quite capable of making friends in Country ~B~. He is quite capable of developing activities in Country ~B~. There is no doubt that Aidan wishes to introduce Glenn to a whole range of activities and people in Country ~B~

which will more than compensate Glenn for any short term inconveniences to his life in Northern Ireland. It is not a requirement that Aidan compensates him in this way but rather a statement that that is Aidan's nature and also recognition that Aidan puts a lot of effort into planning contacts with Glenn. As part of the warning that I have given to Catriona I make it clear that promoting good direct and indirect contact does not involve using inconveniences to Glenn to delay or disrupt contact with Aidan or to provoke an angry or abrupt response from him.

[40] Catriona should not make it a precondition to contact that Aidan sets out what he is intending to do with Glenn during contact or where he is intending to take Glenn or who Glenn is to meet. Aidan's choices have all been excellent. Arrangements for contact should be a question of sorting out the dates. There is no need for any such enquiries or for the delay that such enquiries generate. The simple message to Catriona is that she should accept the excellent contacts that occur between Glenn and Aidan and that Aidan should be trusted to arrange all matters in relation to contact. The provision of information should only be seen as a method of preparing Glenn for contact.

#### **Application for a residence order**

[41] Aidan has the necessary parenting skills to care for all of Glenn's physical emotional and educational needs. In arriving at that conclusion I emphasise that those parenting skills include Aidan making provision so that Glenn can maintain and develop a relationship with Catriona by way of proper contact, both direct and indirect.

[42] If Glenn was separated from Catriona he would suffer a grief reaction and he would endure complex emotional needs. There would be a need for social emotional and cognitive adjustment. He would develop sadness, emotional withdrawal and behavioural disturbance. Glenn could adjust to living with his father but the emotional costs would be significant certainly in the short term.

[43] That emotional cost has to be balanced against the current emotional cost to Glenn of living within a climate of contentious contact with his father. Catriona with the benefit of advice from a highly experienced social worker, Dr. Leddy, senior and junior counsel and solicitor together with constant supervision from the courts has to an extent improved her behaviour. At one stage during the hearing I entertained such serious reservations about whether this limited improvement could be sustained let alone built on, that I was considering making an order now changing residence to Aidan. However on reflection I am of the view that Catriona can set her mind to improving and prioritising Glenn's needs. It remains to be seen whether she does so.

[44] I balance all the factors in the welfare checklist putting particular emphasis on Article 3(3) (c) and (e). On the present balance I do not consider that there should be a change in residence though that decision is based on the proposition that Catriona is now committed to promoting contact for Glenn with his father. I repeat the earlier warnings that have been given.

### **Application for a shared residence order**

[45] This is not a case in which Glenn is going to spend an equal amount of time in each household. His home is going to be in Northern Ireland. His parents cannot agree and have extreme difficulty in communicating. I see no benefit to Glenn in making a shared residence order.

### **Contact order**

[46] I will make an interim contact order dealing with contact for a limited period of time. I will adjourn any further consideration of contact with liberty to apply. I attach the interim direct contact arrangements as a schedule. At present staying contact in Country ~B~ is limited in duration to 2 weeks on any one occasion.

### **Telephone contact**

[47] The sorry position is that for Glenn to speak to his father on the telephone he needs to be in a separate environment than his home and his mother should not be listening to the conversation. Accordingly telephone contact should continue to take place in a neutral environment and this for the time being should be a contact centre. I also set out in the schedule to this judgment the arrangements for telephone contact. I make it clear and warn that telephone contact should not be disrupted by Catriona.

### **Handovers**

[48] These cause stress to Glenn. The arrangement that handovers occur at school is an excellent arrangement. Dr Leddy has advised, and I agree, that attempts should be made to find someone else to undertake the handovers on behalf of Catriona. I have not been persuaded that sufficient attempts have been made in that respect by Catriona.

### **A number of other matters**

[49] There is a maintenance order requiring Aidan to make monthly payments. I do not know the financial circumstances of the parties when this order was made. I do know that Aidan has had considerable expenditure in securing contact in Country ~B~ and that his financial position may well have changed. I would urge the parties to resolve any issue in relation to the maintenance order giving proper consideration as to whether any order is still

appropriate. The parties are to inform the court by 12 noon on 16 December 2009 as to whether this issue has been resolved and if not then they are each to respectively to set out their reasons.

[50] Aidan's name and contact details should be added to Glenn's British passport as next of kin so that he (rather than Glenn's uncle whose details should be deleted) can be contacted in case of an emergency. This is presently being undertaken by Catriona who is obtaining a new British passport so that the contact details can be entered including Aidan's name and address. Her solicitors are to confirm to the Office of Care and Protection by 12 Noon on 16 December 2009 that this has been done.

[51] The parties should continue to progress the acquisition of a passport of country ~B~ for Glenn. At present this cannot be acquired by virtue of the fact that Glenn's Birth certificate of country ~B~ does not refer to his full surname. If the Birth certificate of country ~B~ cannot be changed, or if it remains the position that he cannot obtain a passport of country ~B~ with his full surname then it would be inappropriate for Glenn to have a passport of country ~B~.

[52] Glenn's Birth certificate of country ~B~ should be altered, if that is possible, to reflect his correct surname. The Official Solicitor is to correspond with the Authorities of country ~B~ in that respect.

[53] Aidan should give an undertaking to the court in the same terms as that given by Catriona as to the use of Glenn's correct names. If he fails to do so by 12 noon on 16 December 2009 I will make a prohibited steps order.

[54] I wish to give consideration with the assistance of the parties to a prohibited steps order in view of the fact that Glenn has been moved on one occasion from country ~A~ to Northern Ireland. He is settled in Northern Ireland at present but I do not wish there to be any ambiguity as to where he should remain if in the future contact arrangements were not progressing smoothly and there was a further application for a change in residence.

[55] Catriona should avail of psychotherapeutic assistance as recommended by Dr Leddy. Catriona is to inform the Official Solicitor by 12 noon on 16 December 2009 as to whether she has agreed to avail of psychotherapeutic assistance and if so whether any arrangements in that respect have been made. If they have been made then details should be given.

[56] In advance of that psychotherapeutic assistance I entertain reservations as to the benefits of mediation in view of the fact that Catriona perceives that she and Aidan are "as bad as each other". That is a proposition that I have rejected and I do not see mediation progressing unless there is a substantial shift by Catriona. I also find as a fact that the previous attempt at mediation failed because Catriona failed to attend.

**Further information provided to the court bearing on Glenn's Birth certificate of country ~B~, the question of passports for Glenn and a prohibited steps order.**

[57] Subsequent to delivering judgment I have been informed by the Official Solicitor that her enquiries have revealed Glenn's Birth certificate of country ~B~ cannot be changed. I accordingly direct that Glenn should not have a passport of country ~B~ given that it would not be a passport with his correct surname. The potential has been raised if Aidan wishes to have a separate passport for Glenn that an application could be made for an Irish passport. That is something that should be considered by the parties.

[58] I make a prohibited steps order that Glenn is not to be removed from the United Kingdom save for the purposes of contact between Glenn and Aidan.

[59] I also schedule to this judgment various principles, termed "Contact Principles" though some of them may not solely relate to contact. I endorse those principles.

**Further directions.**

[60] Apart from the contact that I have ordered in the schedule to this judgment I have adjourned further consideration of contact.

[61] The official solicitor is to arrange an appointment with the parents to see Dr Leddy on a date convenient to the contact that is to take place in Northern Ireland in May 2010. This appointment should be arranged now and the Official Solicitor and the parties are to confirm to the court by 12 noon on 16 December 2009 that the appointment has been made and that both parents will attend.

[62] I will review the case on either the 7 or 8 June 2010 to coincide with a contact that is to take place in Northern Ireland in June. For the purposes of that review the parties are to prepare a schedule of the proposed contacts for 2010 - 2011. I would hope by that stage that the parties will be progressing towards general principles upon which contact can be arranged rather than specific dates. The parties are to have joint negotiations either on the morning of the review if it is to occur on 7 June 2010 or alternatively on the 7 June 2010 if the review is on 8 June 2010. At that review I anticipate giving directions in relation to contact for 2010 - 2011 and then setting what I hope is a final review date in September 2010.

[63] By 4 pm on 16 December 2009 the Official Solicitor is to provide a written report to the court as to whether there has been compliance with the

various steps that I have directed should have occurred by 12 noon on that date. The report should request the office of care and protection to refer the papers back to me for any further directions that are appropriate.

[64] The parties have liberty to apply.



## CONTACT PRINCIPLES

1. Catriona shall keep a routine book to deal with issues of Glenn's care, such as health, toileting, sleeping, activities, eating, and reading.
2. Catriona should obtain the school reports and school photographs each year and immediately send a copy of the report and a share of school photographs to Aidan. Aidan to pay for his portion of the photographs. Aidan is also to be entitled to obtain information and documents directly from the school.
3. Catriona should leave a message on Aidan's voice mail or text if Glenn cannot contact him by the telephone, and same should apply vice versa.
4. All handovers should be brief and the parents shall behave in a civil manner towards one another and exchange short greetings for the benefit of Glenn. No contentious issues should be raised by either parent at a handover.
5. When contact is taking place in Country ~B~, Aidan shall collect Glenn at the airport in either the Republic of Ireland or Northern Ireland and he shall be responsible for the cost of the flight to Country ~B~. Catriona shall be responsible for collecting Glenn at the end of the visit in Country ~B~ (or other location) and she shall be responsible for paying the return flight. The handovers shall take place at the airport.
6. When contact is taking place in Northern Ireland Aidan shall meet Glenn at the end of the school day and return him to school on the morning of the last day, save that for contacts on no school day, the handovers are ... at 10.00 a.m. for the start and 6.00 p.m. for the end.
7. Each parent shall inform the other if Glenn is spending significant time away from their respective care in Country ~B~ or Northern Ireland.
8. Contact must take place. Parental difficulties are not a reason for cancellation. If Glenn is ill his condition must be properly vouched by medical evidence, and over the next year to the Official Solicitor/Trust.
9. Glenn shall spend alternate Christmas and birthdays with each parent and contact shall be arranged with this principle in mind.
10. The parents will try to agree times, days and dates for contact as early in advance as possible.

11. The parents recognise that they will inevitably incur significant expense in maintaining contact; and that any extra costs incurred in varying contact arrangements, such as rebooking flights, shall be met by the parent responsible for the change.

### **Interim direct contact**

1. - 8. ... (I set out the dates of contact)
  
9. Aidan to have weekly telephone contact with Glenn. Glenn is to be in a contact centre and the telephone contact will take place on a Friday. The telephone conversation should not be in the presence of Catriona.
  
10. Catriona is to have twice weekly telephone contact when Glenn is having contact in Country ~B~ or other country outside NI with his father