

Neutral Citation no. [2002] NIFam 20

*Judgment: approved by the Court for handing down
(subject to editorial corrections)*

<i>Ref: WEAB3217</i>

<i>Delivered: 5 July 2002</i>

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

OFFICE OF CARE AND PROTECTION

Re: NS and JAS and JBS

WEATHERUP J

Introduction

[1] This is an application by a father for unsupervised contact with his three children, NS, born on the 11th July 1993, JAS, born on the 17th May 1996 and JBS, born on the 23rd August 1997. The mother gave birth to a fourth child, JCS, on the 5th March 1999 but there is an issue about paternity and DNA test results have yet to be completed so JCS will be dealt with at a later date.

[2] The mother of the children agrees to supervised contact only and she makes various complaints against the father. There are three principal complaints, the first being of sexual abuse of two of the children; secondly, of locking the family in the home from time to time between 1995 and 1998; and thirdly of the rape of the mother in July 1998.

[3] At the hearing counsel for the mother made an application for a residence order. No formal application had been made but there is power to make a residence order, despite

the absence of a formal application, under Article 10(1)(b) of the Children's (NI) Order 1995 where the court considers that the order should be made.

[4] The parties were married on the 6th August 1992 and separated in July 1998. Numerous reports and statements have been put in evidence and the parties and other witnesses have given evidence and I have taken into account all of that evidence. I summarise some aspects of the evidence through a number of stages.

July 1998-April 1999

[5] After the separation of the parties in July 1998 the children lived with the mother, and the father lived with his parents. On the 8th September 1998 an interim contact order was made whereby the father had contact on Wednesdays between 3 pm and 6 pm and on the 19th January 1999 the contact was extended to Mondays and Wednesdays between those hours.

The relevant Health and Social Services Trust produced an initial report of January 1999 that set out the position in the months following the separation of the parties. At that time the mother complained to social services of two particular matters concerning her husband during the time they were living together. The first complaint concerned his absence from the matrimonial home from morning to night and paying little attention to his wife or to the children of the family. The second complaint concerned the unsuitable accommodation that was provided. The family had lived in a bungalow; then they lived in what she described as an attic, which was the upper storey of the husband's family home; then they lived in a mobile home and then a converted garage while they were planning to renovate a house.

[6] In February 1999 a written statement was made by the mother when she was objecting to ongoing contact between the children and the father. She set out five particular concerns that related to the management of the children by her husband and were not matters of abuse, save for one aspect referred to below. The five particular concerns were first that JAS was frequently returning from contact dirty or wet because his father was not toileting

him properly; secondly that the father was insisting on giving JAS a bottle; thirdly, the children had become unruly and boisterous; fourthly, milk of magnesia was being administered for constipation; and finally, that on the 27th January 1999 on return from contact NS informed his mother that his father had put him in the garage where they used to live with no light on and this had distressed NS.

[7] The father furnished a statement in response in February 1999 and he sought extended contact at that time. He stated that he wanted to play a greater role in the children's lives and he made a comment that was to be emphasised during the hearing- "There are no allegations against me that I am a bad father or that I have hurt my children in any way."

May to July 1999

[8] Matters took a different turn in May 1999. On the 6th May 1999 the mother reported to the GP that the father was interfering with the children. On the 10th May 1999 the mother made a telephone call to the police alleging sexual abuse of NS and JAS. On the 11th May 1999 the mother made a telephone call to social services alleging sexual abuse of NS and JAS. It was put to the mother during her evidence that the complaints at that time were not always consistent in relation to the identity of the child alleged to have been abused but I find that the complaints of sexual abuse at that time did refer to both NS and JAS.

[9] The police began an investigation and Reserve Constable Irvine, who had experience of such investigations, attended at the mother's home on the 21st May 1999. His evidence was that when he arrived the mother told NS to tell the officer about daddy sucking his privates. The constable told the mother not to say too much to the children but she was excited and repeated her remarks. So there were concerns from the beginning of the investigation about the conduct of the mother in relation to the complaints. The constable telephoned Maura Dargan of social services on the 8th June 1999 and she recorded the

constable's concern that the children were being primed by the mother and that the mother had stated "What if the children say I put them up to it?"

A police statement was made by the mother on the 1st June 1999 where she set out her complaints concerning NS and JAS engaging in conduct that simulated sexual activity. She reported that she had spoken to NS about him holding his privates and taking his pants down and reported that NS had told her that his daddy "took him into the garage and touched his wee willie" and she also reported that JAS had told her that his daddy "touched his wee willie." The mother alleged that the father had raped her on the 14th July 1998. After reciting the rape details, she stated that the previous week JAS had told her that "his daddy sucked his willie."

[10] A joint protocol interview with NS was arranged involving the constable and the social worker. A transcript of the interview was made and NS described incidents where his father was "touching his privates and was sucking it". The social worker produced a Child Protection Investigation Report on the 21st July 1999 in which he set out the background and concluded that "there does not appear to be substantial evidence to confirm that sexual abuse occurred. Whilst it was acknowledged that NS intimated alleged incidents during interviews, it is possible that the mother may have influenced him and the other children in an attempt to prevent contact continuing. The maternal grandmother also plays a significant role and may also be being used to support the mother's position".

The report recommended that a time limited period of six supervised visits be granted on a weekly basis facilitated by a social worker at social services premises.

July 1999 to December 2000

[11]. In 1999 the contact issue was before the County Court. On the 20th October 1999 an Order was made by Judge Markey for six weeks of supervised contact. That contact did not take place because the mother did not co-operate. The mother's

statement of 26 November 1999 set out her concerns at that time, and they were considerably extended concerns compared to what appeared in the earlier statement. For example, she referred to a miscarriage that had been the result, she alleged, of her husband throwing her to the floor at the beginning of their marriage whereby she said she lost their first child. She made allegations of physical and verbal abuse against her husband on an increasing basis throughout the marriage. She expressed concerns that her husband had kept a shotgun under the bed. She recited that on occasions when her husband left the home he would often lock the family in the house and she would telephone her parents who would come over and release the family.

[12] The social worker reported on the course of the supervised contact on the 24th January 2000. At the first attempt to secure such contact it was reported that the mother “stood over NS and asked him ‘Do you want to go and see your daddy.’ NS nodded (yes). The mother asked again ‘Do you want to go with this man to see your daddy.’ NS answered in a sheepish manner ‘yes’.” The mother then concluded that the child was confused and she stated that she would not want to force the children if they did not want to go. There were further attempts to secure contact but all were unsuccessful. The reasons for the mother’s approach to contact with the father are set out in her statement of the 8th March 2000 and in essence she was concerned that no action had been taken in relation to her complaints and she denied that she was discouraging contact with the father.

[13] On the 16th March 2000 Judge Markey heard the evidence in relation to the complaints of sexual abuse and found that they were not established. He ordered six weeks supervised contact. Only one contact took place and that was on the 9th May 2000. The social worker’s report of the 4th July 2000 described that visit where the father “was directed to the playroom and greeted the children, telling them that he missed them. The children replied ‘Hello daddy,’ JAS came forward and gave his father a hug. The father appropriately

interacted with the children enquiring about school etc. and commenting on how much they had grown. He participated in play with the children.” The father suggested to the children they go for a “wee sail” in the car (meaning a toy push car) and the children became excited thinking they were leaving with their father. The report concluded that the above events were a good indication that the children did not fear nor prove anxious about being alone with their father.

[14] The further contacts did not take place. On the 19th October 2000 Judge Markey ordered an investigation under Article 56 of the Children’s (NI) Order 1995 and the transfer of the case to the High Court. Article 56 provides-

“Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or a supervision order to be made with respect to him, the court may direct the appropriate authority to undertake an investigation of the child’s circumstances.”

Supervised contact was re-established on the 20th December 2000 so that there was only one visit between the father and the children from July 1999 until the end of 2000.

January to December 2001.

[15]. The Article 56 investigation report dated 31st January 2001 included discussion of the mother’s care of the children from July 1998, the sexual abuse allegations against the father and the impact of the allegations upon the childrens’ emotional well being and on contact. Both parties gave their consent to Dr Swann becoming involved to examine the circumstances of the case. Contact with the father was then occurring on a fortnightly basis for a period of one hour and supervised by a social worker. There had been four such contacts at that date. No significant issues had arisen and NS participated fully and interacted with his father although he did avoid physical contact. JAS and JBS appeared natural with their father and were more readily forthcoming with physical affection. The report commented that there remained a potential for contact to progress yet further should it continue to be allowed to

proceed without interference or obstruction. The father was found to have managed the contact exceptionally well ensuring that his time was equally divided between the three children, enquiring of schools, home-works and clothing, to which the children responded positively. The report recommended a review hearing to examine the progress of contact.

[16] There was a further report from the Social Worker of the 7th March 2001. Contact had progressed positively and the indications were that it had been an enjoyable and valuable experience for the children. It was said to be difficult to be conclusive regarding NS's conduct towards his father in the initial stages of contact and to ascertain the nature of his anxiety.

[17] On 16 March 2001 Mr Justice Gillen ordered unsupervised contact for two hours weekly. The report from the social worker of 10 May 2001 recorded nine contacts having taken place, on an unsupervised basis, and the report concluded that on each occasion the father had been greeted by the children with excitement and anticipation with both JAS and JBS running to him for hugs at the outset. As the weeks progressed NS also became markedly excited upon his father's arrival and had begun to offer physical contact to his father. NS has been observed hugging his father and holding his hand and all three boys would shout "daddy, daddy" when they saw him arriving. It was noted that on a couple of occasions when the mother was present during the father's arrival NS was more conservative and controlled in respect of his approach to his father.

[18] Dr Swann investigated the relationships between all the parties and she reported initially on the 10th May 2001 and sought further material. It was her opinion at that time that it would not be appropriate for her to interview the children as two years had passed since the original allegations. She obtained the additional information and reported again on the 15th May 2001. She had some criticisms to make of the joint protocol interview and she commented that because of the repetitive nature of the statements that were made at interview

it would have been important for the interviewer to clarify that the child understood what he was talking about. NS had referred to “cuddling into me” and it was Dr Swann’s opinion that this may not have been describing a hug in the conventional sense. The comment caused her concern and required further investigation to ascertain exactly what the child meant. She was also concerned about an association between being sick and the description of what might have been oral genital contact and again this had required full investigation. She commented generally that in her opinion there had been enough concerning information to warrant a further interview, which did not actually take place. She concluded that there was a possibility that the child had been sexually abused by the father. She found no strong indication that the child was responding to coaching. It was her opinion that the investigation was not complete and that it was not going to be possible to fully investigate the matter or come to a firm conclusion because of the passage of time.

[19] Further material was made available to Dr Swann and she reported on the 15th June 2001. She quoted the passage from the father’s statement of the 24th February 1999 where he said there were no allegations against him and she commented that it was soon after that that the first allegation against him was made and asked whether or not this was in response to his statement and other issues. She considered that the new material had not enabled her to be any firmer about her opinion as to whether or not the children had been sexually abused or had been coached and she recommended that a full assessment be undertaken. On the 29th May 2001 supervised access was reinstated.

[20] A report from the social worker of the 25th September 2001 referred to a matter of note which had occurred on the 25th June 2001 when the mother had been advised that NS’s teacher had concerns about inappropriate sexual behaviour by NS. Further, on the 31st July 2001 the social services received a letter from the mother advising that she had gone on holiday and there was doubt as to whether or not that was correct but the children had been

removed from contact with their father for a time. In addition the report noted a visit that involved the paternal grandparents in September 2001 when the father and the paternal grandparents were physically affectionate to the children, hugging and kissing them and telling them that they had missed and loved them and that JAS and JBS were both receptive to this and NS tended to avoid this attention and communicated that he was uncomfortable.

[21] For the purposes of the assessment recommended by Dr Swann she interviewed the children and produced a further report dated 28 September 2001. NS was found not to display inappropriate sexual knowledge and Dr Swann was concerned about the rhyming fashion by which he relayed the information and how he checked with his maternal grandmother before coming to see Dr Swann, which she considered to indicate some coaching. However, she did stress that that was not necessarily sinister. Her summary was that NS did not have a meaningful or good relationship with his father and any discussion about the father evoked negative comments.

[22] In relation to JAS Dr Swann was again concerned about the rhyming fashion by which information was relayed. It was noted that it was the same content as the information that NS had given but that might have been because they were subjected to the same experience or it could be argued that it was coaching or overhearing discussion by adults. It was of note that he was not able to demonstrate to her the sexual behaviour he was describing. JAS was found not to have been able to have a meaningful relationship with his father and spoke of him only in terms of negative issues. His presentation was more in keeping with a child who has been coached although the reported manner in which he made the allegations was of concern.

[23] In relation to JBS the mother informed Dr Swann that the pregnancy was the result of rape, a matter about which she had not previously complained. The mother also repeated the allegation that she and the children had been locked in the garage and Dr Swann

was sceptical of that matter. She phoned the health visitor who stated that the family arrangements involving the garage were not ideal but fairly satisfactory and she made her visits unannounced and she was never aware that the family were locked in the garage and she was confident that, if that was so, not only would she been aware of it but that she would have taken action.

[23] A summary of conclusions in the assessment was that the three children had a good relationship with their mother although there were reported management problems. At that stage there were concerns about injuries to the children and this was under investigation. The fundamental allegations of sexual abuse against the father she considered may be valid and it appeared that there had been efforts to coach or shape the children. In her evidence Dr Swann indicated that she considered the chances of sexual abuse by the father as being thirty per cent .The disclosure about being locked in the garage was described as problematic and was viewed as a child protection issue.

January 2002 to date

[24]. On the 14th March 2002 the children were placed on the Child Protection Register under the category of “potential emotional abuse”. This resulted from concerns in relation to the mother’s ability to manage the children, provide supervision and meet her own needs, as well as the significant amount of physical injuries to the children and her emotional attachment to them.

[25] The up-to-date social worker’s report of 17th June 2002 noted that the mother had been overheard by a social worker telling the children that the father did not want them and that he was after NS. It was further noted that NS avoided physical contact with the father on a majority of occasions and would display discomfort or reservation when physical contact was offered.

Findings in relation to the principal complaints

[26] The first allegation is that of sexual abuse. I am not satisfied on the balance of probabilities that sexual abuse by the father has occurred. These were young children who were making these reports and the authorities investigating the complaints had grounds for concern about contamination of the evidence. On the evidence that I have heard I share the reservations about the complaints. The matter was reported to the police and to the social services but there were clear grounds for concern about the influence of the mother and the maternal grandmother in relation to coaching the children. The police and the Director of Public Prosecutions considered the matter and were not satisfied in relation to the issue of criminal proceedings although, of course, that is to a different standard. Social services carried out a child protection investigation and the social worker too had coaching concerns and was not satisfied that there had been sexual abuse. Judge Markey heard the allegations and he was not satisfied. Dr Swann considered there to be a thirty per cent chance of sexual abuse having occurred. I accept Doctor Swann's evidence in relation to the inquiry being incomplete, although I do not doubt that the constable and the social worker were doing their professional best in the circumstances, but nevertheless it would seem that there were other steps that might have been undertaken at the time for a fuller investigation and that may or may not have made any difference to the outcome.

The mother was seeking to influence the report made by NS in particular although I don't regard that as necessarily sinister as it may have been based on her own beliefs as to what had happened. The children were reported by the mother and the maternal grandmother, and also by the teacher in the case of NS, to have indicated inappropriate sexual conduct or awareness but it is not indicated that that stems from abuse by the father. On the evidence I am not satisfied to the requisite standard.

[27] The second allegation is the locking of the family in the garage. I am not satisfied on the balance of probabilities that there was this locking of the family in the garage in the manner in which it was reported. While the mother reported the incident involving NS on the 27th January 1999 in her statement of February 1999 and it was denied by the father the issue here is the more general allegation that from 1995 to 1998 the family were locked up in the garage on many occasions, an allegation that was made in November 1999. There was delay in reporting the matter although I accept that to some extent the mother was focussing on contact rather than conduct for the period after the separation. The problem did not come to the attention of the health visitor even though she had made unannounced visits. The social worker made enquiries from the midwife and she too made unannounced visits on occasions and was unaware of the complaint. Dr Swann referred to the inaction or lack of reaction from the maternal grandmother who had been closely involved with her daughter and had there been any problem to the extent alleged then she might have been expected to react. In the mother's statement of November 1999 she complained that food had been brought by the father from his parents' home and that he would bang on the door and leave the food outside to be collected by the wife and children. It is curious, if the family were locked in the house as alleged, that in relation to the description of the different complaint of the food left outside, the mother was able to get the food.

[28] The third allegation concerns the rape. I am not satisfied on the balance of probabilities that a rape occurred on the 14th July 1998 or on any date. The matter was not reported until May 1999. I find it extraordinary that if this had occurred it was not mentioned earlier.

The mother alleged that JCS was conceived as a result of the alleged rape of 14 July 1998. I find that JCS was born at thirty-eight weeks on the 5th March 1999 and so conceived

in the middle of June 1998 when there were consensual relations taking place between the parties.

Doctor Swann refers in her report of September 2001 to the mother's allegation of rape at the conception of JBS. In evidence the mother denied that this was the case and denied that she had said this to Dr Swann. I accept that this report must be based on a misunderstanding and that she did not intend to complain of rape in relation to the conception of JBS.

General findings

[29] As to general findings the first matter is that the relationship between the children and the father is underdeveloped. Dr Swann has referred to this undesirable position in relation to both NS and JAS in her report of the 28th September 2001. It would be desirable that the relationships between the father and the children should develop in the proper manner as the children get older.

Secondly, contact with the father is clearly beneficial and I refer to a further example from the social worker's report of December 2001 describing a contact that occurred- "All three children have appeared to enjoy contact and displayed excitement upon their father's arrival. The father and his parents engage the children in appropriate conversation and play activities. Earlier concerns regarding NS's anxiety have significantly subsided and this has progressed to the extent where he would voluntarily give his father a hug good-bye. In the context of previous contact visits NS is now exhibiting a marked confidence during contact and this may be in relation to having consistency and regularity established."

Thirdly, it is apparent that the children have a good relationship with the parental grandparents. A further example appears in the social worker's report of November 2001 which describes a visit on the 19th October 2001 when NS was more at ease than in previous contacts and engaged with his father and grandmother without hesitation.

Fourthly, I am satisfied that the mother has convinced herself that the father has abused the children. This may explain her encouraging the children to complain of abuse, as she has done from time to time. That is not to suggest that in doing so she is conniving with anyone to make false allegations but she has prompted the children in relation to the complaints and that has not assisted in establishing what actually happened, although she may have felt at the time that it would assist. Further, it may explain her lack of encouragement for the children to attend contact. It is also apparent that the children would want to please their mother and father and NS in particular seems to be conscious, as one might expect, of his mother's attitude and he responds accordingly. However the mother's belief cannot explain her conduct in creating negative attitudes to the father on the part of the children and I am satisfied that she has done that from time to time.

Fifthly, the mother has found it difficult to cope with the four young children, which is totally understandable. She is a young woman with four boisterous children and she has to deal with them on her own as the principal carer. There were concerns for injuries to the children but these seem to have lessened now since the family has moved to a new house. The children have been on the child protection register since March 2002 in respect of potential emotional abuse arising from management problems by the mother and contributed to by the dispute as to contact which in turn impacts on the children. I find that the father may have contributed to her difficulties in coping. The father purchased a toy for the children which involved a trapped child and the mother found this toy disturbing in the light of the complaints that were made about the family being locked in the home. The father rejected those complaints but I find it impossible to believe that he was not unaware of the potential effect of that toy on the mother. It did not have that effect on the children but it certainly had a quite understandable effect on the mother and I was not satisfied with the

innocent explanation offered by the father. The mother is totally hostile to unsupervised contact with the father and to supervised contact involving the father's parents.

The statutory approach

[30] Article 3(1) of the Children (NI) Order 1995 provides that where a court determines any question with respect to the upbringing of a child, the child's welfare shall be the court's paramount consideration.

Article 3(3) provides that where the court is considering making a residence order or a contact order the court shall have regard in particular to the statutory welfare list.

Re P [1996] 2 FLR 333 sets out the approach of the court in a case such as the present. Wall J stated-

“The judge's first duty, therefore, was to decide on the balance of probabilities whether or not this father has sexually abused either or both of the children.” (page 341)

“His plain duty, in my judgment, having found that the allegation of sexual abuse was not made out, was to apply the welfare checklist..... to the father's application for contact, and to decide, applying the paramountcy principle..... whether contact should remain supervised or become unsupervised.”
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I approach the matter on that basis and I am satisfied that even with the rejection of the particular complaints that I have noted there may still be a requirement for supervised contact if I decide that the welfare of the children so requires.

[31] In relation to the concept of hostility it was stated by Balcombe LJ in Re J [1994] 1 FLR.729 at 736 -

“...judges should be very reluctant to allow the implacable hostility of one parent (usually the parent who has a residence order in his or her favour) to deter them from making a contact order where they believe the child’s welfare requires it. The danger of allowing the implacable hostility of the residential parent (usually the mother) to frustrate the court’s decision is too obvious to repetition on my part”

In Re P [1998] 2 FLR 696 at 703, Wilson J stated-

“It seems to me that a mother’s hostility towards contact can arise from three different situations. The first is where there are no rational grounds for it. In such a case the court would be extremely slow to decline to order contact and will do so only if satisfied that an order in the teeth of the mother’s hostility would create a serious risk of emotional harm for the child. The second is where the mother advances grounds for her hostility which the court regards as sufficiently potent to displace the presumption that contact is in the child’s interest. In that case the mother’s hostility as such becomes largely irrelevant: what are relevant are the underlying grounds, which the court adopts. The third is where the mother advances sound arguments for the displacement of the presumption but where there are also sound arguments which run the other way. In such a situation, so it seems to me, the mother’s hostility to contact can of itself be of importance, occasionally of determinative importance, provided as always that what is measured is the effect upon the child.”

In considering the mother’s hostility to unsupervised contact with the father in the present case the first situation would arise if there were no rational grounds for the hostility and that is not this case. The second situation would arise if there were grounds that exist which are in themselves sufficient to displace unsupervised contact and that is not this case as I have found there are not such grounds established on the balance of probabilities. The third situation is where the mother advances sound arguments to displace unsupervised contact but there are also sound arguments in favour of unsupervised contact and that is this case. The sound arguments against unsupervised contact arise from the impact on the children of the mother’s reaction and its effect on the children. The mother’s hostility is based on a genuine

belief and that is a consideration to take into account which occasionally may be of determinative importance.

The welfare checklist

[32] A balance must be struck between on the one hand the effect on the mother, and therefore of the children, of an order for unsupervised contact and on the other hand the effect on the father and the children of the absence of unsupervised contact, with the measure being the welfare of each of the children. Regard must be had in particular to -

(a) the ascertainable wishes and feelings of the children. JAS and JBS react enthusiastically to contact with their father including unsupervised contact. NS is less than enthusiastic and he is conscious of his mother's attitude and he refers to his mother when she is present. However he does seem to get on well with the father and the position during contact has improved. His attitude was described by counsel for the mother as one of hostility to the father but I do not accept that description. In general the children interact well with their father at contact and negative elements will be addressed as contact continues.

(b) their physical, emotional and educational needs. Their emotional needs are affected adversely through the mother's hostility, which I have found to be based on genuine belief.

(c) the likely effect on the children of any change in circumstances. The evidence emerging from the observations of previous contact between the children and the father indicates that increased contact or changes to the nature of that contact will have a positive effect on the under developed nature of the relationship between the children and their father.

(d) the age, sex, background and relevant characteristics of the children. The consolidation of the younger childrens' enthusiasm and the counteracting of NS's lack of enthusiasm will be aided by the development of the relationship with the father through settled and increasing contact.

(e) any harm which the children have suffered or are at risk of suffering. I take into account the possibility that there has been sexual abuse, and that the investigation may have been incomplete. The mother's hostility to the father impacts adversely on the children.

(f) how capable of meeting the childrens' needs is each of the parents. In the mother's case there is a child protection issue relating to emotional concerns but she is the best person to be the primary carer and is capable of so remaining. The father is capable of providing fatherly needs in the contact setting.

(g) the range of powers available to the court. The relevant orders in the present proceedings are residence in relation to the mother and either supervised or unsupervised contact in relation to the father.

Residence and Contact

[33] There is an application for a residence order for the mother. The children are on the child protection register for potential emotional abuse arising from the mother's difficulties. In part those difficulties stem from this ongoing contest between the parents and to create some overall stability and reassurance for the mother it would be appropriate to make a residence order.

If it were appropriate for the welfare of the children there should be unsupervised contact with the father so that the children can develop such full parental relationships as circumstances permit. In the light of the findings that certain complaints have not been proved in evidence the principal constraint on unsupervised access is the hostility of the mother, and indeed of her family, based on the belief that sexual abuse had occurred and I accept that that genuine belief on the part of the mother has an effect on the children. I have to balance that against the effect on the children's welfare of restrictions on contact

It is my conclusion that what that balance requires is a developing relationship of contact which will involve a gradual and lengthy process and initially there should be supervised contact leading to unsupervised contact but there should not be staying rights.

[34] Accordingly I set out below the course of contact with the father. Initially, there should be supervised contact with the father's parents as supervisors. The mother is hostile to the father's parents. I find that she does not have rational grounds for her hostility to the father's parents and that the implication that they in some manner acquiesced in what she believes was the father's sexual abuse of the children is without foundation. Accordingly I am satisfied that the father's parents are appropriate supervisors.

The Trust does not wish, and does not have the resources, to continue acting as supervisor, but will act in the role of monitor of the exchange of the children for the purposes of contact. The exchange point should be agreed. Alternatively another exchange monitor may be agreed and in that regard the local clergyman's name was mentioned. The Trust will also undertake spot monitoring as and when it is considered necessary to determine whether everything is in order. The contacts will continue as daytime contacts.

[31] Phase one of this supervised contact with the father's parents will take place in July 2002 for three hours per week.

For August 2002 supervised contact will be for three hours, twice a week. For one of the weeks in August there should be supervised contact for six hours per day, on two occasions.

The third phase is September to December 2002 with supervised contact for three hours per week on two occasions. For one week per month one of those weekly contacts should be a six-hour contact on a Saturday or Sunday.

The fourth phase is the Christmas school holidays and there should be supervised contact for three hours per week on two occasions. One of those weekly contacts should be

six hours on either Christmas Eve or Christmas Day and another should be six hours on either New Years Eve or New Years Day.

The fifth phase is after the Christmas holidays when for 2003 there will be unsupervised contact for three hours per day, on two occasions each week. There will continue to be handover monitoring by the Trust or other agreed monitor and there will continue to be spot monitoring by the Trust. All contacts will remain daytime contacts.