

SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT DUNDEE

[2019] SC DUN 94

DUN-F105-17

NOTE BY SHERIFF LORNA A DRUMMOND QC

in the cause

AA

Pursuer

against

BB

Defender and Respondent

**Pursuer: Rasmusen;
Defender and Respondent: Notorangelo;**

Dundee, 8 November 2019

The sheriff, having resumed consideration of the cause:

Finds the following facts admitted or proved -

1. Anna¹ is 4 years old, born on 22 July 2015.
2. The parties split up in October 2015 when Anna was only a few months old.
3. Since then Anna has lived with the defender.
4. The pursuer had contact with Anna after the parties' separation until September 2016 for periods of time but not overnight.
5. The pursuer raised these proceedings in March 2017 seeking residential contact.
6. An *interim* order for fortnightly residential contact was made on 31 August 2017 from 11am on a Saturday until 12 noon on a Sunday.

¹ A pseudonym is used.

7. Residential contact took place at the pursuer's mother's house in Prestwick where the pursuer lives. Anna has her own bedroom there and built a close relationship with the pursuer's mother.

8. From the start of residential contact, Anna became distressed at handovers. Initially these took place at Cellardyke, Anstruther where the defender lives. Thereafter handovers took place at a neutral venue in Pittencrieff Park, Dunfermline.

9. In spring 2018, the defender obtained a court order for handovers to take place at the Contact Centre in Kirkcaldy. Anna was distressed at the handover there too.

10. On 23 November 2018, following a report and recommendations from Dr Boyle, psychologist, the court discharged the proof set down for that day and made an order that contact should be non-residential. It should take place on a four weekly cycle every Saturday for varying periods of time between 5 and 8 hours each occasion. The understanding was that there would be no handovers involved, and the defender would be present throughout contact. Over time the parties might attempt mini handovers so that Anna became used to being handed over and more amenable to it. Mini handovers involve the defender and Anna spending time together outwith the pursuer's presence but within the contact period. The parties agreed in February 2019 not to pursue residential contact.

11. Anna's main attachment is to the defender as the parent that she has lived with all her life. She looks to the defender for guidance and reassurance.

12. The pursuer is aged 35, and works as a driver. He spends time with Anna engaging in various activities including visiting the park and swimming. Previously when Anna had been upset at handovers, she quietened down in the car and settled well in Prestwick.

13. Anna is relaxed and happy in her father's company. It is important that her relationship with her father is not trivialised and is strengthened.

14. During contact in Pittencrieff Park in June 2019, Anna became upset when her mother was about to leave her. However, Anna went on her own with the pursuer's mother for 45 minutes into another area of the park and was happy and relaxed with her. Anna has not become upset at handovers when Mrs A is present.
15. The parties have argued in front of Anna.
16. The defender is 35 years old and lives in Cellardyke, Anstruther. She is a primary school teacher.
17. When the pursuer took Anna to St Andrews, Anna had returned and clung to the defender's side.
18. The defender allowed the pursuer additional opportunities to attend her home to spend time with Anna. The defender previously rejected other proposals for non-residential contact without her being there. The defender has previously shortened contact visits.
19. The defender told Dr Boyle that she invariably speaks positively to Anna about her father. However the family GP stated to Dr Boyle that when the defender brings Anna to the surgery she talks about background issues and is negative about the pursuer in the presence of Anna.
20. The defender needs to facilitate an attachment between Anna and her father.
21. The parties must aim to improve their own relationship to ensure that Anna feels at ease.
22. It would facilitate mini handovers if Mrs A could be present.
23. It is not practicable to give Anna the opportunity to express her views as she is too young.

Finds in fact and law:

- (1) This court has jurisdiction;
- (2) It is in Anna's best interests that she has non-residential contact with the pursuer on the following basis:

Every Saturday on a 3 weekly cycle for 6 hours each time. The first two weeks' contact will take place with the defender's home in Cellardyke, Anstruther as the base and the third week with the pursuer's home in Prestwick as the base. Both parties must be present throughout contact except during mini handovers. Mini handovers will operate as follows (i) in the first three weeks, the defender should leave Anna with the pursuer for an hour; (ii) that period should be increased by a further one hour every three weeks and (iii) after four months, Anna should spend 6 hours with the pursuer, the defender being present at the beginning and end of contact only.

Weekly skype or facetime contact to take place on days and at times to be agreed between the parties.

- (3) It is better that the court makes that order than no order at all.

Therefore:

Upholds the defender's plea in law and repels the pursuer's plea in law; finds no expenses due to or by either party and certifies Dr Boyle as a skilled witness.

Note

[1] In this action the pursuer invites the court to make a residential contact order, whereby the parties' child, Anna, has contact with the pursuer (a) every second weekend from 10am on Saturday until 6pm on Sunday; (b) from 10am on Xmas Day until 10am on

Boxing Day every alternate year; (c) from 10am on Anna's birthday until 10am the following day every alternate year; (d) for four long weekends each year in the school holidays from 10am on a Friday to 5pm on the Monday; (e) weekly skype or facetime contact on days to be agreed between the parties; and (f) to find the defender liable in expenses.

[2] The defender invites the court to find the pursuer entitled to contact with Anna (a) every second Saturday alternating between Prestwick from 11am until 5pm; then Dunfermline or another neutral venue to be decided between the parties from 11am until 5pm or for a period of 6 hours, then in Anstruther from 10am until 5.30pm, and then in Dunfermline or another neutral venue to be decided by the parties from 11am until 5pm or for a period of 6 hours, said contact to take place in the presence of the defender so far as necessary to ensure the best interests of the child; which failing (b) every second Saturday from 11am until 5pm, handover to take place at the defender's home and to be facilitated by the pursuer's mother; and (c) to find the pursuer liable to the defender in the expenses, and to certify Dr Boyle as a skilled witness.

[3] I heard a proof on 19 July and 29 August 2019. I ordered written submissions to be exchanged and lodged with the court by 19 September 2019. On 19 September I made *avizandum*.

[4] I heard evidence from Mrs A, who is the pursuer's mother. I also heard from the pursuer himself. I next heard evidence from the defender, and then from Dr Boyle, psychologist.

[5] I do not rehearse all of the evidence in this note. I restrict myself to the main points in contention and to what I made of those. It is not disputed in this case that it is in Anna's best interests to have contact with her father. Contact is ongoing albeit that it takes place in the presence of the defender. What is in dispute is how much contact is in Anna's best

interests, whether it should be residential and in particular what the contact arrangements should be.

[6] Anna is 4 years old, born on 22 July 2015. The parties split up in October 2015 when Anna was only a few months old. Since then Anna has lived with the defender. The pursuer had contact with Anna after the parties' separation until September 2016 for periods of time but not overnight.

[7] The pursuer raised these proceedings in March 2017 seeking residential contact. An *interim* order for fortnightly residential contact was made on 31 August 2017 from 11am on a Saturday until 12 noon on a Sunday. Residential contact operated after that. The pursuer took Anna to his mother's house in Prestwick where he lives. Anna has her own bedroom there and built a close relationship with the pursuer's mother. However, since the start of residential contact, Anna became distressed at handovers. Initially these took place at Cellardyke, Anstruther where the defender lives. Thereafter handovers took place at a neutral venue in Pittencrieff Park, Dunfermline. By all accounts the handovers were tense and hostile. In spring 2018, the defender obtained a court order for handovers to take place at the Contact Centre in Kirkcaldy. Handover was not successful there either.

[8] On 23 November 2018, following a report from Dr Boyle, psychologist, the court discharged the proof set down for that day and made an order that contact should be non-residential. It should take place on a four weekly cycle every Saturday for varying periods of time between 5 and 8 hours each occasion. The understanding was that there would be no handovers involved for the non-residential contact, and the defender would be present throughout contact. Over time the parties might attempt mini handovers so that Anna became used to being handed over and more amenable to it. Mini handovers involve the

defender and Anna spending time together outwith the pursuer's presence but within the contact period.

[9] Mrs A described how Anna has always been happy and settled during contact visits to Prestwick. She described the pursuer as devoted to and besotted with his daughter. Mrs A's relationship with Anna became stronger as a result of these contacts. Anna is quite happy to go with Mrs A on her own and she did so for about 45 minutes when contact took place at Pittencrieff Park in June 2019. She described how Anna goes with the pursuer on her own in the swimming pool while she and the defender went for coffee. There are also times when Anna would go happily with her dad into the garden or park but sometimes gets agitated for example when the defender reinforces that she is leaving her. Anna doesn't get upset at handovers when Mrs A is present. Mrs A is of the view that the current arrangements are not successful. Mrs A would be able to be present at all handovers if needs be.

[10] The pursuer is aged 35, works as a driver and lives with his mother in Prestwick. He described how he previously had residential contact in Prestwick and did many things with Anna such as visiting the park, friends and children of a similar age. These residential visits to Prestwick had strengthened Anna's relationship with him and his mother. Previously when Anna has been upset at handovers, she had quietened down in the car and settled well in Prestwick. After residential contact stopped, there were a few mini handovers when, for example, the pursuer took Anna to St Andrews in February 2019. Anna had been fine with that. Other times the parties go to a shopping centre and Anna stays with the pursuer while the defender shops. During contact in Pittencrieff Park Anna had become upset because the defender had continuously reinforced that she was leaving her. However, Anna had happily gone with his mother for 45 minutes into another area of the park. The pursuer

described the defender as never encouraging Anna to go with him. When the defender is present Anna looks to her as she spends most of her time with her. He suggested that arrangements would work better if the defender came to Prestwick with Anna and then left Anna there with minimal fuss. He described the handovers as improving before the defender obtained a court order that they should take place at the contact centre in Kirkcaldy. He accepted that he had argued with the defender in front of Anna.

[11] The defender is 35 years old and lives in Cellardyke. She is a primary school teacher. She described Anna becoming very distressed, clingy and upset during handovers. The parties had agreed in February 2019 not to pursue residential contact and nothing had changed since then to make it appropriate. There had been some mini handovers like the one in St Andrews, although Anna had returned and clung to her side. The defender suggested that Anna had been tricked on that occasion as she thought she had been taken to get cake ingredients but had returned without them. In Pittencrieff Park, Anna had been very upset at the mini handover and the defender had not been prepared to leave her like that.

[12] The defender explained that she wants to get to the point where Anna is comfortable with her father. She felt that Anna is not ready for residential contact. She was previously clingy when returned from residential contact. She thinks that Anna mistrusts the pursuer after the St Andrews incident. The defender accepted she had previously rejected other proposals for non-residential contact without her being there. She accepted she had shortened contact visits previously but not on many occasions. In cross-examination she accepted that whilst she had told Dr Boyle that she invariably speaks positively to Anna about the pursuer (page 18 of 6/4/1), the family GP had contradicted this. The GP had stated

that when the defender brings Anna to the surgery she talks about background issues and is negative about the pursuer in the presence of Anna (page 15).

[13] Dr Boyle prepared two reports for the court. In his report dated 13 November 2018 (6/4/1 of process) he records a number of conversations he has had with the defender's mother, the pursuer's mother, the family GP, the parties and Ms McMahon, nursery teacher. He made observations from contact between Anna and her father on 15 September 2018 at Prestwick where he describes Anna as being relaxed and enjoying her father's attention. Dr Boyle's view is that Anna's distress before and after contact is the result of her parents' inability to co-operate in arrangements. Dr Boyle assesses Anna's attachment as being mainly to the defender as the parent that she has lived with all her life. However her relationship with her father should not be trivialised and should be strengthened. Although the defender says she supports contact in principle that is not enough, she needs to facilitate an attachment between Anna and her father and ensure the parties have a relationship that puts Anna at ease.

[14] Dr Boyle suggested in his November 2018 report that the contact arrangements should be rewritten and that the pursuer should be present throughout contact with no handovers. He proposed that the defender should visit the pursuer in Prestwick and the pursuer should visit the defender in Anstruther, to allow the pursuer to see Anna.

[15] In his further report dated 19 June 2019 (6/6 of process) Dr Boyle makes observations on contact at Pittencrieff Park, Dunfermline on 15 June 2019. The parties and the pursuer's mother were all present. He describes them as having a relaxed relationship at the start. He recorded that Anna was clearly pleased to see her father. She played happily with him while the defender was in the background. However, when the pursuer wished to take Anna away she became distressed. He observed the parents exchanging angry remarks. Dr

Boyle concludes that future contact has to be reconsidered. More of the same is not likely to improve matters. Dr Boyle's suggestion is that the pursuer puts his proposals for contact on hold until the parents have been advised about the best strategies to ensure Anna's relationship with her father is secure and the parents are going to co-operate and secure a united front to Anna.

[16] In oral evidence Dr Boyle stated that his view was that the first task was for Anna to see her parents getting on well. There needs to be a commitment from the residential parent for the child to develop an attachment with the other parent. Before residential contact can take place Anna needs to feel secure leaving her mother and needs to see a degree of co-operation between her parents. He agreed that one way to develop contact might be for Anna to be handed over to her grandmother Mrs A who could take her to Prestwick. But he maintained that it was important for Anna to see her parents having a tolerable relationship.

Pursuer's submissions

[17] The pursuer sought the orders set out in paragraph 1 above. He submitted that I should not accept Dr Boyle as being a reliable witness. He had prepared two reports dated 13 November 2018 (6/3/1 and 6/4/1 of process). Both had the same date but one contained a recommendation that residential contact should stop whereas the other did not. It was a result of that recommendation that the court had stopped residential contact at the end of 2018. However Dr Boyle could not remember making any change to his report. He had no memory about other matters such as receiving the defender's solicitor's email of 3 June 2019 (6/6/7 of process) or speaking to the pursuer on 13 June 2019. Nor had he any memory of what the current contact arrangements were.

[18] The pursuer set out a number of practical difficulties with contact. Geography was an important one. So long as contact was non-residential it meant that Anna may need to travel to and from Prestwick on the same day. Where contact is in Dunfermline or places other than the parties' homes, there is no base and limited activities. In Anstruther, it is difficult for the pursuer to use the defender's home as a base. In addition there are difficulties with the defender being present throughout contact. Anna constantly looks to her mum for guidance. The defender does not encourage Anna to go with the pursuer. The pursuer referred me to *Blance v Blance* 1978 SLT 74 per Lord Stewart at p75 where he states that it is the duty of the person who has the care of the child to tell the child, "to do his or her best to ensure that the access granted is in fact enjoyed". The pursuer does not have long enough time to build a relationship with Anna. He does not have time alone with Anna. He does not have time with her in a comfortable familiar setting.

[19] The pursuer submitted that the parties are hostile to each other and this is obvious to Anna. The current format is not successful, not sustainable and not in Anna's best interests. The court should recognise that the parties have a poor relationship and make a decision that is in the best interests of Anna. Handovers must be introduced so that residential contact can resume. The court should not make an order which is likely to be revisited in the future. Residential contact must resume immediately with holiday contact also ordered so that Anna can develop a normal happy relationship with her father. Residential contact would allow Anna to spend longer periods with the pursuer, allow her time alone with him in a comfortable, relaxed and familiar environment and reduce the journey times she has to make. It will also allow her to forge a strong relationship with her paternal grandmother. Any handovers should take place at a neutral venue such as Pittencrieff Park, Dunfermline

with only the parties present. The court should also make an order for weekly skype/facetime between the pursuer and Anna.

[20] The pursuer submitted that the defender had only made the proposals that contact should be changed to fortnightly and non-residential after the evidence had been led at proof. The pursuer was therefore unable to put these proposals to Dr Boyle for his views. Dr Boyle was not asked at any stage whether reducing contact in this way would be in Anna's best interests. It was not put to the pursuer or his witnesses. The proposal would cut in half the pursuer's contact time. It would weaken rather than strengthen the pursuer's relationship with Anna. That is inconsistent with Dr Boyle's advice that Anna's relationship with her father should be strengthened.

Defender's submissions

[21] The defender sought the orders set out at paragraph 2 above. Primarily the defender invited the court to make an order for non-residential contact every second Saturday in different venues for about 6 hours each time all within the presence of the defender. Failing that, she seeks an order for the pursuer to have contact every second Saturday from 11am to 5pm at the defender's home with the pursuer's mother facilitating contact. The defender submitted that since parties had agreed that the child was not ready to progress to residential contact in February 2019, the focus should be on what had changed since then and the date of proof. The pursuer had accepted in evidence that contact had changed from residential every second weekend to non-residential every week. The pursuer failed to focus on what had changed since February 2019. Instead he focused his evidence on blaming the defender who he accused of not encouraging contact and cutting short contact. However the problem was not that the defender did not encourage the child but rather that

the child did not have a strong enough bond with her father. His evidence was contradictory on this point in any event. Whilst suggesting the defender was opposed to his relationship with Anna developing, he also accepted that the defender allowed the pursuer additional opportunities to attend her home to spend time with the child and left the pursuer alone with Anna when she went off for a coffee. Furthermore in his affidavit he had stated that matters had deteriorated since November 2018 yet in evidence he stated things had improved. He gave little evidence of how matters had improved to an extent to allow residential contact.

[22] The defender had been clear in her evidence that there had been no change between February 2019 and the proof and therefore nothing upon which the court could conclude that residential contact was in Anna's best interests. The defender did try to encourage contact. The defender was unable at times to leave Anna because she became distressed at attempted handovers. She acknowledged that it was wrong of her to speak ill of the pursuer in the presence of the child.

[23] The defender submitted that it was disingenuous of the pursuer to try to make something of the fact that Dr Boyle did not remember the current contact arrangements, nor that he was asked to recommend how contact could be improved. The email letter of instruction to him made these matters clear. Dr Boyle had recommended that residential contact stopped in November 2018. The pursuer had accepted that in February 2019. Dr Boyle had been unable to provide an explanation of why the two reports differed but nothing should be made of that as it was clear what the difference was. Dr Boyle was of the view that the child was not ready for residential contact. Her attachment to the pursuer was at an embryonic stage and would only develop slowly. Anna needs to feel secure enough to go with her father. Forcing her to go would not provide any benefit. Dr Boyle explained

that the child requires to see the parties' relationship improve. The current arrangements, whilst not ideal, could remain in place until parties come to a better solution.

[24] The defender is prepared to reconsider the contact arrangements and to make the child available for non-residential contact in the meantime. The pursuer had criticised the defender for not promoting contact but there was little evidence of what the pursuer was doing to address the attachment issues.

[25] The child's attachment to the pursuer is not strong enough to move to residential contact or to the child being left with the pursuer in the absence of the defender. The child is distressed and upset when she thinks her mother is going to leave her. Her attachment to the pursuer is minimal. That position is supported by Dr Boyle. It is better for the child that fortnightly non-residential contact takes place as proposed by the defender. The pursuer's proposals for contact with the child each alternate year on her birthday and at Christmas and Boxing Day from 10am to 10am the next day would mean that the child would require to be awake at the latest at 6am on these days and endure a lengthy journey to Prestwick which is not in her best interests.

Decision

[26] In considering whether to make any of the orders sought under section 11(1) of the Children (Scotland) Act 1995, I must apply the test in section 11(7)(a) and must regard Anna's welfare as the paramount consideration. I should not make any order unless I consider that it is better for Anna that the order be made than that no order be made at all. Under section 11(7)(b), I must, so far as practicable, give the child an opportunity to indicate whether she wishes to express her views; and have regard to the views the child wishes to express. Anna is 4 years old. I do not consider it practicable to give her the opportunity to

express her views as she is too young. In considering whether to make any order and the welfare of Anna, I must have regard to the factors set out in subsection (7B) of section 11. These include the need to protect Anna from any abuse or risk of abuse which affects, or might affect her. Under subsection (7D), I must consider whether it is appropriate to make the order where in pursuance of the order the parties would have to co-operate with each other as respects matters affecting the child.

[27] In my view, all the witnesses were doing their best to tell the truth and tell the court what they think about contact. I have some misgivings about Dr Boyle's evidence, particularly since he had produced two reports of the same date with different recommendations but could not explain why. However these did not cause me to conclude that he was unreliable in general. I rely on his evidence to the extent explained below.

[28] In this case it is not in dispute that it is in Anna's best interests to have contact with her father. She has been described by Dr Boyle as being relaxed and happy in her father's company. Her father is described as doting on her and makes every effort that contact is enjoyable for Anna. I accept the evidence of Dr Boyle and the other witnesses that it is clear that Anna's main attachment is to her mother as the resident carer. She looks to her for guidance. However I also accept that it is important that her relationship with her father is not trivialised and is strengthened. But what extent of contact with her father and under what arrangements are in her best interests?

[29] In considering what contact order, if any, to make, I am bound to take into account the need to protect Anna from abuse. Abuse includes any conduct which gives rise to, or is likely to give rise to, fear, alarm or distress. Anna has suffered distress at handovers and I need to consider how to protect her from that distress when making any order.

[30] The parties have a poor relationship. Dr Boyle described it at one stage as “toxic”. However that seemed to me to be a little exaggerated. Although both parties described arguing with each other in front of Anna, they do make arrangements with each other about contact and have spent quite a lot of time together at contacts without any incidents being reported. The pursuer criticises the defender for not encouraging Anna to have more contact with her father. He also criticises her for making a fuss when leaving Anna. The defender is understandably concerned that her daughter became distressed and upset at handovers. She accuses the pursuer of tricking Anna when taking her places for things she doesn’t get. Each party is suspicious and distrustful of the other. The parties’ ability to cooperate is something that I also take into account when considering what order to make.

[31] Anna is still a young child, aged 4 years old. With her main attachment being to her mother, it is entirely natural that she will only leave the defender when she feels secure enough to do so. Anna is relaxed in her father’s company but she needs to feel secure enough to leave her mother and be with her father. It is up to both parties to work towards a situation where the environment is such that Anna feels able to leave her mother and have contact with her father without her mother being present.

[32] How can that be achieved or promoted by a court order? The evidence is that Anna has not felt secure when her mother drops her off with the pursuer at places such as Pittencrieff Park or the contact centre. Any order should, in my view, avoid a repeat of that, in order to protect Anna from feeling distressed. The solution previously imposed was to have no handovers. That is not ideal either, since both parties are present throughout and have a strained relationship. However, there was relatively limited evidence about arguments taking place during contact. Moreover, the evidence showed that there have been mini handovers where Anna has spent time alone with her father with no difficulty,

e.g. in the swimming pool or when the defender has been shopping. The evidence also showed she has been quite happy to go on her own with Mrs A.

[33] In my view these mini handovers should be increased and built upon, facilitating a gradual move towards Anna having more and more time alone with the pursuer. That will allow Anna to build up a sense of security in being left by her mother to go with the pursuer. I envisage this being achieved by weekly non-residential contact continuing. I do not consider the defender's proposal to reduce contact to fortnightly would be likely to promote a stronger relationship with the pursuer and be in Anna's best interests. It would be a significant reduction in the little time she has with him and unlikely to make her more comfortable or secure with the pursuer when she is with him. I heard no evidence that a reduction of contact to fortnightly contact would be in Anna's best interests.

[34] I envisage weekly contact continuing on a Saturday on a 3 weekly cycle for 6 hours each time, with the first two weeks at Cellardyke, Anstruther as a base and the third week in Prestwick. That will restrict the long journey time to once every three weeks. It will also ensure that Anna's contact with Prestwick is maintained as a familiar family setting. I have deliberately avoided handovers at another venue. Understandably a child may feel like they are being passed from one parent to another under such arrangements which is in my view not in Anna's interests. Moreover, the evidence showed that was not successful previously.

[35] I would encourage Mrs A to be present at the contacts, whether in Anstruther or Prestwick, whenever she can, in order to reassure Anna. However, I do not include any such requirement as part of an order. That is because I do not consider it a pre-requisite to contact taking place and would not want that to stand in the way of contact taking place. To start with both parties should be present. For the first three weeks, the defender should leave Anna with the pursuer for an hour. That period should be increased by a further one

hour every further three weeks. Eventually, after four months, that will result in a six hour period where Anna spends 6 hours with her father albeit the defender is there at the beginning and end of contact. Once these 6 hour periods are established, it may be possible to eventually progress to residential contact but that must be at a time that is right for Anna. The defender must try to encourage Anna to go with her father and positively promote their relationship.

[36] The periods should be firmly adhered to so that Anna gradually builds up a sense of security and routine. It will also be important so that parties show their commitment and can begin to trust each other again. The defender must not make any attempt to reduce the periods of contact. The aim is to work towards periods of contact where the defender is not present at all and there can be smooth handovers by the parties at the start and end of contact, and without the aid of Mrs A. A return to residential contact can only be after these handovers are regularly taking place without Anna becoming upset or distressed. I would hope parties could reach agreement on when that time arrives and residential contact can resume.

[37] I do not make any different order for the holiday periods. The pursuer's proposals for Xmas and Boxing Day would result in a long journey and early start for Anna. Parties are free to agree something different between themselves if they can. If not, the weekly Saturday non-residential contact will remain over the holiday period which will ensure a continued routine and structure for Anna.

[38] I recognise that these arrangements are far from ideal when, to start with at least, the parties will continue to be present throughout most of contact and that their relationship is poor. However contact has been carried out on this basis for some time and parties have

shown that they can be together with Anna without arguing. Moreover, the time spent with both present should reduce once contact progresses in the manner I have set out.

[39] I include an order that weekly skype or facetime contact should take place on days and at times to be agreed between the parties. That has been ongoing and is in Anna's best interests in order to maintain and promote her relationship with the pursuer.

[40] I also recognise when making these orders that there is a risk that they may need to be revisited at some point if contact doesn't progress in the manner envisaged. However, in my view it is better that I make these final orders. These proceedings have been ongoing for over two years. The parties have attended many child welfare hearings over that time and not managed to come to any other arrangement. I have set out a means by which they can progress contact and try to work together towards that end. I encourage them to do all they can to achieve that. If that fails, then it may be they need to bring proceedings once more, but my hope is that will not be necessary.

[41] These orders will allow Anna to develop the security she needs, which is essential to her well-being. In my opinion, it is in Anna's best interests that the court makes these orders. It is better that the court makes these orders rather than no orders at all. I encourage both parties to put their differences to one side and to focus on promoting Anna's relationship with her father, building up longer periods of contact with him on her own.

[42] The parties each sought expenses against the other. I do not regard either party having proceeded in a manner that would justify an award of expenses against them in these proceedings. I award no expenses due to or by either party. I also certify Dr Boyle as a skilled witness.