JUDGMENT : THE HONOURABLE MR JUSTICE MUNBY : Family Division : 1st April 2004.

1. On 11 November 2003 a wholly deserving father left my court in tears having been driven to abandon his battle for contact with his seven year old daughter D. She was born on 2 August 1996. That battle had lasted for precisely five years. It was on 11 November 1998, a matter of days after the parties separated on 2 November 1998, that mother petitioned for divorce and on the very next day that she began proceedings for a residence order. From almost the moment when the parties separated there were problems about contact. As matters stand today, direct contact has ceased – it has not taken place since 20 October 2001 and father has not even seen his daughter since 1 December 2001. Such indirect contact as is taking place is far from satisfactory.

2. From father's perspective the last two years of the litigation have been an exercise in absolute futility. His counsel told me that father felt very let down by the system. I was not surprised. I make no apology for repeating here in public what I then said in private: *"He is entitled to. … I can understand why he expresses that view. He has every right to express that view. In a sense it is shaming to have to say it, but I personally agree with his view. It is very, very disheartening. I am sorry there is nothing more I can do."*

   I also said this: *"I think there are lessons to be learned from this and I think this is, if for father a heartbreaking occasion, an opportunity [that] in the wider public interest requires to be seized. … He has nothing, so far as I can see, to reproach himself with. The system has failed him. … I feel desperately, desperately sorry for him. I am very sad that the system is as it is. That is why, as I have said, I am going to give a judgment dealing with the wider aspects of this."*

3. I now hand down this judgment in public as a contribution to what Wall J in ***A v A*** [2004] EWHC 142 (Fam) at para [22] referred to as *"the ongoing debate about the role of the courts in contact and residence disputes."* I repeat what I recently said in ***Re B, Kent CC v B*** [2004] EWHC 411 (Fam) at para [99]: "In my judgment, the workings of the family justice system and, very importantly, the views about the system of the mothers and fathers caught up in it, are, as Balcombe LJ put it in ***Re W (Wardship: Discharge: Publicity)*** [1995] 2 FLR 466 at p 474, "matters of public interest which can and should be discussed publicly". Many of the issues litigated in the family justice system require open and public debate in the media."

   And I draw attention to what the President said in the administrative directions that she issued on 28 January 2004 in the wake of the ***Angela Cannings*** case (see ***Re B*** at para [14]): *"It is also worth giving consideration to increasing the frequency with which anonymised family court judgments in general are made public. According to current convention, judgments are usually made public where they involve some important principle of law which in the opinion of the judge makes the case of interest to the law reporters. In view of the current climate and increasing complaints of 'secrecy' in the family justice system, a broader approach to making judgments public may be desirable."*

   I respectfully, and emphatically, agree.

4. Those who are critical of our family justice system may well see this case as exemplifying everything that is wrong with the system. I can understand such a view. The melancholy truth is that this case illustrates all too uncomfortably the failings of the system. There is much wrong with our system and the time has come for us to recognise that fact and to face up to it honestly. If we do not we risk forfeiting public confidence. The newspapers – and I mean newspapers generally, for this is a theme taken up with increasing emphasis by all sectors of the press – make uncomfortable reading for us. They suggest that confidence is already ebbing away. We ignore the media at our peril. We delude ourselves if we dismiss the views of journalists as unrepresentative of public opinion or as representative only of sectors of public opinion we think we can ignore. Responsible voices are raised in condemnation of our system. We need to take note. We need to act. And we need to act now.

5. I have handed down, in private, judgments dealing with those aspects of the case that ought to remain private. I now hand down this further judgment in public. I have anonymised it so that the parties will not be identified or in any way traceable. For that reason, because to name them would reveal where the parties come from, I have also anonymised the District Judges and Circuit Judges who dealt with this case in the County Court before it was transferred up to the High Court.

6. The history is most conveniently set out in tabular form, attached as an Annexe to this judgment. The Annexe is long but I make no apologies for that. The history of the case is long – too long – and it is important that those who wish to ponder the implications of this judgment should have available to them proper details of what has happened. In due course I shall return to the Annexe in order to draw from it the lessons that I believe need to be learnt. But first I must flesh out in a little more detail some of the salient features of the litigation. What follows is taken in large part from the two judgments that I have given in private.

7. This case raises issues some of which have recently been considered by Wall J (as he then was) in three important judgments: ***Re M (Intractable Contact Dispute: Interim Care Order)*** [2003] EWHC 1024 (Fam), [2003] 2 FLR 636, ***Re O (A Child)*** [2003] EWHC 3031 (Fam) and ***A v A*** [2004] EWHC 142 (Fam). ***Re O*** received much publicity, not all of it accurate. Wall J's three judgments require to be read together. Not merely do they contain a number of immensely valuable and important insights and lessons which are of general application; they neatly illustrate three different types of what are conventionally called intractable contact disputes. At the risk of some over-simplification it can be seen that in ***Re M*** it was the mother who was primarily responsible for the problems, in ***Re O*** it was the father, and **in** ***A v A*** both parents shared the responsibility. The cases also illuminatingly illustrate different techniques for attempting to resolve disputes of this kind. In all three cases the mother was the residential parent. In ***Re M*** residence was transferred to the father by means of an interim care order followed in due course by a residence order; in ***Re O*** the father's contact was stopped; in ***A v A*** a joint residence order was made.

8. I agree entirely with everything said by Wall J in those three cases. I wish, however, to emphasise two points in particular and I can do no better than to repeat what he said in *Re O*. The first is the vitally important point he made at para [6] in a passage endorsed by the President in ***Re S (a child) (contact)*** [2004] EWCA Civ 18, [2004] 1 FCR 439, at para [23]*: "The courts recognise the critical importance of the role of both parents in the lives of their children. The courts are not anti-father and pro-mother or vice versa. The court's task, imposed by Parliament in section 1 of the Children Act 1989 in every case is to treat the welfare of the child or children concerned as paramount, and to safeguard and promote the welfare of every child to the best of its ability.*

Unless there are cogent reasons against it, the children of separated parents are entitled to know and have the love and society of both their parents. In particular, the courts recognise the vital importance of the role of non-resident fathers in the lives of their children, and only make orders terminating contact when there is no alternative."

As the President said in ***Re S*** at para [19], "*mothers and … fathers have equal rights before the court*." That, of course, is true, and it is a message that needs to be repeated and understood. But what is also true is that there are far more non-resident fathers than non-resident mothers. As the President acknowledged in ***Re S*** at para [20], *"In practice, after separation, the majority of children remain with the mother who is, for that reason, the more likely parent to seek a residence order. The father is, for the same reason, the more likely parent to seek a contact order."*

So that when the system fails – and fail it does – it is disproportionately fathers and not mothers who find themselves, as well as the children, the victims of that failure.

9. The second point is that made by Wall J when he went on to say: *"The court system for dealing with contact disputes has serious faults, which were identified and addressed in Chapter 10 of the report of the Children Act Sub-Committee (CASC) of the Lord Chancellor's Advisory Board entitled Making Contact Work. … In particular, the court process is stressful for both parents and children, it is expensive for those who are not publicly funded; it is slow and adversarial. It tends to entrench parental attitudes rather than encouraging them to change. It is ill adapted to dealing with the difficult human dilemmas involved, notably when it comes to the enforcement of its orders.*

Parents must, however, take their share of responsibility for the state of affairs they have created. Blaming the system, as the father does in this case, is no answer. He must shoulder his share of the responsibility for the state of affairs he has helped to bring about. All the evidence is that he has proved incapable of doing so."

He elaborated these points at paras [86]-[87]: *"In Paragraphs 10.35 to 10.43 of Making Contact Work, CASC set out trenchant criticisms of the court process. I resile from none of them, although both through the Protocol for Judicial Case Management in Public Law Children Act Cases and in the application of its principles to contact and*

residence disputes the question of judicial continuity has been vigorously addressed. But I adhere in particular to the conclusions contained in paragraphs 10.37 and 10.39, namely: -

10.37 The court procedures are too slow. There is insufficient court time and a lack of resources: cases take too long to come to court. There are substantial delays which are detrimental to children and their parents.

10.39 The litigation process is adversarial and counter-productive. It entrenches attitudes rather than encouraging them to modify. It tends to focus on the arguments of the parents, not the needs of the child. It puts particular pressure on the divided loyalties of children.

In so far as the father's complaints echo the conclusions of Making Contact Work I am, of course, sympathetic to them. But it is not enough to blame the system, particularly where a substantial share of the responsibility for contact breakdown lies at the door of the parent who complains that the system is the cause of all his ills … parents must take their share of responsibility for the state of affairs they have created."

The President made much the same point in *Re S* at para [28].

10. All that is true. But it nonetheless needs to be recognised that there are cases, and the present case in my judgment is one, where a parent is entitled to blame the system. Wall J's observations in *Re O* were made in the context of a case where, as he made clear, the father who was so critical of the system was the very parent who (see at para [83]) had made allegations against the other that were "without foundation … manifestly unsustainable, indeed absurd" and who had proved himself, as Wall J put it, incapable of shouldering his share of the responsibility for the state of affairs he had helped to bring about.

11. Some – it may, for all I know, be many – of the fathers who are so critical of the system have only themselves to blame for the predicament in which they and their children find themselves and seek unfairly and inappropriately to turn their feelings of frustration and anger into criticism of the system. But the anger which some fathers display to the system cannot simply be put down to "the rage of Caliban seeing his own face in the glass". Some – in the nature of things I cannot know how many but I fear it is too many for comfort – have every justification for their feelings.

12. I agree with Wall J that there are instances where mothers deliberately alienate children to prevent contact taking place, though like him I prefer Drs Sturge and Glaser's concept of *'implacable hostility'* to so-called *'parental alienation syndrome'*: see ***Re O*** at paras [91]-[92], referring to Sturge & Glaser ***Contact and Domestic Violence – the Experts' Court Report*** [2000] Fam Law 615 at p 622. As Wall J said, *"Parental alienation is a well recognised phenomenon*." Indeed, as he went on to point out, ***Re M*** was a clear case of parental alienation. Unhappily, in my judgment, the court process does not always prove equal to the task of dealing with such cases.

13. In the present case there has been some criticism of father. But these criticisms of father, comparatively trivial when placed in the wider context, do not begin to address the reality of the present unhappy situation. It needs to be said clearly and firmly: the primary, indeed the overwhelming, responsibility for all this lies at mother's door, and mother's door alone.

14. This is a father who, as the Circuit Judge said in 2001 (and I entirely agree*), "has been consistent and sincere in his wish for contact with [D] in spite of frustrations which have in the past on occasion adversely affected his judgment … in general he is a genuine and sincere father who loves [D], and has her interests very much at heart. He seeks contact because he loves [D], and he knows that this is in her best interest. In my judgment he is right."*

15. This is a father who was described by a Consultant Clinical Psychologist in February 2001, in words with which I also agree, as follows*: "Psychologically, [father] presented as a balanced, fairly well-integrated man who could acknowledge both his own deficits as well as reflect on his past behaviour and consider errors, misjudgements and misdemeanours. His view of others was equally balanced; he had no difficulty in adopting another's perspective and could easily acknowledge alternative viewpoints and alternative hypotheses. If his view was challenged, he was able to reflect on the premise and then give a considered response. Overall, his presentation did not indicate a defensiveness. In general, he presented as an emotionally warm and caring man. …*

It is noted that [father] is sensitive, responsive and creative in his play with [D]; … [D] was completely absorbed and happily engrossed in play with her father … I found [father]'s interactions with [D] to be indicative of a warm

caring relationship where there was clear evidence on his part of emotional sensitivity, reciprocity with [D], and appropriate attunement. This indicates a secure parent-child relationship, and that [D] has indeed already formed a strong, significant attachment to her father which will endure despite contact irregularities. …

His sensitive care of [D] and the high quality of his interactions with [D] at contact, particularly given long periods of separation and the high conflict context of these contact sessions, lend weight to a view that [father]'s contact with [D] is impressive in it qualities and is clearly rewarding for this child."

16. A consent order providing for weekly unsupervised contact every Saturday from 10am to 5.45pm was made on 27 November 1998. But as early as 1 April 1999 the difficulties were such that the father was driven to apply for a penal notice. By 26 April 2000 matters had got so bad that on that day mother was given a suspended sentence of seven days' imprisonment by a Circuit Judge. On 20 February 2001 she was given an immediate sentence of fourteen days' imprisonment by another Circuit Judge for what he described as *"flagrant breach of court orders"*. In a judgment which the same Circuit Judge gave on 31 August 2001 he characterised the mother's behaviour as follows*: " … mother was obstructive towards contact and gave numerous unreasonable excuses why it was not appropriate to make [D] available for contact … mother constantly disobeyed contact orders from the court … The mother has in the past disobeyed many court orders and her objections to contact appear intractable. It was only following the drastic step of being sent to prison that she complied … Sadly, [mother's] view about [father] is intractable … "*

17. To that succinct summary I need only add that amongst the many such excuses put forward by the mother one finds groundless assertions that D was ill, that D was frightened by the father's chastisement of her, that D was forcibly fed by her father, that father had threatened not to return her after contact, to take her away from the mother and to remove her from the jurisdiction, and that he had repeatedly broken the agreed contact arrangements. All those allegations, I emphasise, were groundless. Conspicuously absent, also, I should point out, are any judicial findings supporting mother's allegations of domestic violence.

18. Even after the Circuit Judge had given that judgment, mother continued to put forward threadbare excuses to justify her continued obstruction of contact. The last contact, as I have said, took place on 20 October 2001. The contact planned for 26 October 2001 was sabotaged by mother. I need not set out the details. It suffices for present purposes to repeat what I said in my judgment of 18 February 2003: *"That was sabotage, even if sabotage by deliberate and meaningful silence rather than by expressed words. Moreover I have no doubt that [D]'s behaviour on this occasion was brought about by mother. [D] had clearly enjoyed contact on the two previous weekends. Why on earth should she not want to see her father again? It can only have been because of what mother was saying or doing. In the nature of things I cannot know what goes on between mother and [D] when they are at home together. But it is obvious that mother, even if she was not actively poisoning [D]'s mind against her father, was wholly unable to conceal from [D] her own antipathy to father and her own resistance to the very idea of contact. For this grave breach of her duty – not so much to the father and to the court: much more to [D] – mother bears a heavy responsibility."*

19. The final incident took place on 1 December 2001, the last occasion that father has even seen his daughter. Father behaved most foolishly and in a way which I am sure he has come to regret bitterly. But mother needs to ask herself why father behaved in that way. The plain answer is that it was her constant sabotage of contact that had goaded him beyond endurance. But for her endless prevarications, wrigglings and obstruction of contact the incident on 1 December 2001 would never have taken place. For father it was simply the last straw – and whatever it was that made him lose his temper it was something pretty trivial. But father would have had to be a saint not to have acted otherwise. It may have been father who made the first overt move but, overwhelmingly, it is mother who carries the responsibility – the legal, parental and moral responsibility – for what happened on that occasion.

20. I repeat what I said in February 2003: *"This is not a case of 'six of one: half a dozen of the other'. I am not of course suggesting that father is either faultless or blameless; but the fact, as I have already said, is that in this case it is mother who is overwhelmingly responsible for the predicament in which [D] and her father now find themselves. I simply refuse to accept that there is any equivalence – legal, moral, parental, or in any other respect – between a father who is "entrenched and rigid" in his desire to have the contact which everyone other than the mother thinks he should have with his daughter and a mother who is "entrenched and rigid" in her opposition to that contact.*

What is this father supposed to do? Just walk away from the problem – walk away from his daughter – in the faint hope that perhaps if he does not press for contact something will happen? Surely not! Is he to be criticised for continuing to invoke what thus far has proved to be the wholly inadequate assistance of the court? Certainly not! He would, in my judgment, be fully justified if he believed as a responsible and loving father that the time for appeasing mother has come to an end."

21. I return to the Annexe. What does the history of this litigation show? There are various features which, if perhaps present here in more than usually concentrated form, characterise far too many such cases. Let me identify some of the most significant:

i) First, there is the sheer length of the proceedings: five years.

ii) Secondly, there is the large number of hearings and the astonishing number of different judges who have been involved. There were 43 hearings conducted by 16 different judges: nine hearings were before five different District Judges, 25 hearings were before no fewer than seven different Circuit Judges, and a further nine hearings were before four different High Court Judges. It is true that one Circuit Judge conducted nine hearings, another Circuit Judge five hearings, and another Circuit Judge four hearings, as I did also. But as against that modest degree of judicial continuity it has to be noted that two judges conducted only three hearings, five judges only two hearings and a further five judges only one hearing each.

iii) Thirdly there is the vast bulk of the evidence filed down the years. The parents' evidence (including exhibits) filed during the period down to the hearing before the Circuit Judge on 31 August 2001 ran to some 165 pages; since then there has been more than 400 further pages. The expert evidence runs to 388 pages. A total of more than 950 pages! This almost ceaseless proliferation of paper is in large measure the product of delay: every time the case is adjourned, further reports and more evidence are required to ensure that the court is kept up-to-date.

iv) Fourthly, there is the matter to which the father drew attention in his application dated 9 November 1999, as well he might: the fact that the case had been listed for a final hearing in respect of residence on 30 June, 12 July, 27 September and 28 October 1999 but, as he complained, "on each occasion it has been adjourned by the Court." He pointed out, with what might be thought studied moderation, that he was being afforded very limited contact with his daughter and that this was "prejudicial to my continued parenting of my daughter." Little good this seems to have done him. Final hearings listed on 19 January, 29 June and 5 July 2000 and on the first available date after 16 March 2001 were all adjourned. The final hearing which had initially been fixed for 30 June 1999 did not in the event take place until 28 August 2001. It led to the judgment delivered on 31 August 2001 from which I have already quoted.

v) Fifthly, and linked with the previous point, there is the great delay before the court got round to making findings in relation to the mother's various allegations against the father. Allegations that turned out to be wholly groundless, and which could and should have been resolved at a very much earlier stage, were not judicially determined until August 2001. Allegations of domestic violence that surfaced in October 2000, and which I strongly suspect were either groundless or greatly exaggerated, have never been the subject of any judicial determination.

vi) Sixthly, there is the great delay in seeking assistance from any expert other than the Court Welfare Officer. True a Consultant Clinical Psychologist produced, in accordance with directions given on 15 December 2000, a report – a very valuable report – on 2 February 2001. But only on 31 August 2001 was the step taken of involving an independent social worker with the remit of facilitating the implementation of overnight contact. That was after the final hearing had taken place, well over two years after the contact arrangements had plainly run into difficulties and sixteen months after the suspended committal order.

vii) Seventhly, there is the even longer delay that took place before an order was made on 26 March 2002 for the appointment of a children's guardian.

viii) Finally, although this point is in fact absolutely central to the father's complaints, there is the characteristic judicial response when difficulties with contact emerged: reduce the amount of

contact and replace unsupervised with supervised contact. The original consent order made on 27 November 1998 provided for the father to have over seven hours unsupervised contact each weekend. Difficulties emerge: in plain language, the mother obstructs contact. On 7 June 1999 the contact is reduced to two hours at a contact centre. On 19 January 2000, and again on 12 April 2000, orders are made providing for unsupervised contact for three hours. Mother obstructs contact. On 26 April 2000 a suspended committal order is made. On 12 May 2000 the contact is again reduced to two hours at a contact centre.

22. Seen from a father's perspective, a case such as this exhibits three particularly concerning features:

i) the appalling delays of the court system, exacerbated by the absence of any meaningful judicial continuity, seemingly endless directions hearings, the lack of any overall timetable, and the failure of the court to adhere to such timetable as has been set;

ii) the court's failure to get to grips with the mother's (groundless) allegations; and

iii) the court's failure to get to grips with the mother's defiance of its orders, the court's failure to enforce its own orders.

23. The frustration this engenders is exemplified by the comment of a father in another case that came before me recently: *"I welcomed an independent investigation [by a child psychologist] because for so many years many Judges have heard aspects of the situation but at no time has anyone sought to verify the truth of the situation … Each time the matter is heard relevant past facts do not get presented and the Court's limited time is taken up with the initiating of procedural matters rather than a consideration of the facts of the case."*

24. Seen from a judicial perspective there are two further particularly concerning features of such cases:

i) The all too frequent response to any significant problem with contact: list the matter for further directions; reduce contact in the meantime; obtain expert reports; direct the filing of further evidence – all of which produces only further delay which, in turn, exacerbates the difficulties and leads eventually to a situation which may be irretrievable.

ii) The fact that too often in such cases we only wake up to the fact that the case is intractable when it is too late for any effective intervention.

25. It is convenient at this point to remind ourselves what the European Court of Human Rights at Strasbourg has to say on these topics. I list in chronological sequence what are for present purposes the most important decisions: ***Hokkanen v Finland*** (1994) 19 EHRR 139, [1996] 1 FLR 289, ***Ignaccolo-Zenide v Romania*** (2000) 31 EHRR 212, ***Nuutinen v Finland*** (2000) 34 EHRR 358, ***Glaser v United Kingdom*** (2000) 33 EHRR 1, [2001] 1 FLR 153, ***Hoppe v Germany*** [2003] 1 FLR 384, ***Sylvester v*** *Austria* (2003) 37 EHRR 417, [2003] 2 FLR 210, *Hansen v Turkey* [2004] 1 FLR 142 and *Kosmopoulou v Greece* [2004] 1 FCR 427.

26. This is not the place for any detailed exposition of the Strasbourg case-law. It suffices for present purposes if I merely extract a few of the most important points that emerge from the authorities. The first is the principle, long recognised, that, as it was put in ***Kosmopoulou v Greece*** at para [47]: *"the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of family life, even if the relationship between the parents has broken down, and domestic measures hindering such enjoyment amount to an interference with the right protected by Article 8 of the Convention."*

Article 8, of course, protects not merely the father's right to contact with his daughter but also her right to contact with her father.

27. The second is the principle, also long recognised and most recently stated in *Hoppe v Germany* at para [54], that: *"in cases concerning a person's relationship with his or her child, there is a duty to exercise exceptional diligence in view of the risk that the passage of time may result in a de facto determination of the matter."*

As the Court said in ***Glaser v United Kingdom*** at para [93]: "*It is … essential that custody and contact cases be dealt with speedily."*

And as the Court said in ***Sylvester v Austria*** at para [69]: *"the court reiterates that effective respect for family life requires that future relations between parent and child not be determined by the mere effluxion of time."*

28. The third is the principle that in private law cases, just as much as in public law cases, Article 8 includes what was described in ***Hokkanen v Finland*** at para [55] as: *"a right for the parent to have measures taken with a view to his or her being reunited with the child and an obligation for the national authorities to take such action."*

The Court has repeatedly stressed that, as part of their "obligation … to take measures to facilitate contact by a non-custodial parent", national authorities "must do their utmost to facilitate" co-operation between the parents: see ***Hokkanen v Finland*** at para [58], ***Ignaccolo-Zenide v Romania*** at para [94]**,** ***Nuutinen v Finland*** at para [128], ***Glaser v United Kingdom*** at para [66], ***Hansen v Turkey*** at para [98] and ***Kosmopoulou v Greece*** at para [45].

29. The fourth is the general principle enunciated in ***Hornsby v Greece*** (1997) 24 EHRR 250 at para [40] and reiterated in ***Immobiliare Saffi v Italy*** (1999) 30 EHRR 756 at paras [63], [66]:

"[63] … the right to a court would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party. It would be inconceivable that Article 6(1) should describe in detail procedural guarantees afforded to litigants – proceedings that are fair, public and expeditious – without protecting the implementation of judicial decisions; to construe Article 6 as being concerned exclusively with access to a court and the conduct of proceedings would be likely to lead to situations incompatible with the principle of the rule of law which the Contracting States undertook to respect when they ratified the Convention. Execution of a judgment given by any court must therefore be regarded as an integral part of the "trial" for the purposes of Article 6.

[66] … the right to a court as guaranteed by Article 6 also protects the implementation of final, binding judicial decisions, which, in States that accept the rule of law, cannot remain inoperative to the detriment of one party. Accordingly, the execution of a judicial decision cannot be unduly delayed."

30. These positive obligations extend in principle to the taking of coercive measures not merely against the recalcitrant parent but even against the children. As the Court said in *Ignaccolo-Zenide v Romania* at para [106]*: "Although coercive measures towards children are far from desirable in such sensitive matters, sanctions should not be ruled out where the parent living with the children acts unlawfully."*

The Court reiterated this in ***Hansen v Turkey*** at para [106]: *"Although measures against children obliging them to re-unite with one or other parent are not desirable in this sensitive area, such action must not be ruled out in the event of non-compliance or unlawful behaviour by the parent with whom the children live."*

31. But the Court has also consistently recognised that, as it was put in ***Ignaccolo-Zenide v Romania*** at para [94], *"any obligation to apply coercion can only be limited since the interests, rights and freedoms of all concerned must be taken into account, and more particularly the best interests of the child and [his or her] rights under Article 8 of the Convention."*

This was elaborated in ***Kosmopoulou v Greece*** at para [45]: *"the national authorities' obligation to take measures to facilitate reunion is not absolute, since the reunion of a parent with children who have lived for some time with the other parent may not be able to take place immediately and may require preparatory measures to be taken. The nature and extent of such preparation will depend on the circumstances of each case, but the understanding and co-operation of all concerned is always an important ingredient. Whilst national authorities must do their utmost to facilitate such co-operation, any obligation to apply coercion in this area must be limited since the interests as well as the rights and freedoms of all concerned must be taken into account, and more particularly the best interests of the child and his or her rights under Article 8 of the Convention. Where contact with the parent might appear to threaten those interests or interfere with those rights, it is for the national authorities to strike a fair balance between them."*

32. The test was set out in ***Sylvester v Austria*** at paras [59]-[60]:

"[59] In cases concerning the enforcement of decisions in the realm of family law, the court has repeatedly found that what is decisive is whether the national authorities have taken all the necessary steps to facilitate execution as can reasonably be demanded in the special circumstances of each case. In examining whether non-enforcement of a court order mounted to a lack of respect for the applicants' family life the court must

strike a fair balance between the interests of all persons concerned and the general interest in ensuring respect for the rule of law.

[60] In cases of this kind the adequacy of a measure is to be judged by the swiftness of its implementation, as the passage of time can have irremediable consequences for relations between the child and the parent who does not live with him or her."

This was repeated in ***Kosmopoulou v Greece*** at para [47]: *"In examining whether the non-enforcement of the access arrangements amounted to a lack of respect for the applicant's family life the Court must strike a balance between the various interests involved, namely the interests of the applicant's daughter, those of the applicant herself and the general interest in ensuring respect for the rule of law."*

It reflects what the Court had earlier said in ***Glaser v United Kingdom*** at para [66]: *"The key consideration is whether [the national] authorities have taken all necessary steps to facilitate contact as can reasonably be demanded in the special circumstances of each case. Other important factors in proceedings concerning children are that time takes on a particular significance as there is always a danger that any procedural delay will result in the de facto determination of the issue before the court, and that the decision-making procedure provides requisite protection of parental interests."*

33. Furthermore, the national authorities cannot shelter behind an applicant's lack of action: see ***Ignaccolo-Zenide v Romania*** at para [111]. For, as the Court put it in ***Sylvester v Austria*** at para [71]: *"an applicant's omission cannot absolve the authorities from their obligations in the matter of execution, since it is they who exercise public authority."*

34. This last point requires some elaboration. It is to be noted (as observed by Professor Gillian Douglas in her comment on the case in [2003] Fam Law 639) that, as defined by the Court in ***Sylvester v Austria,*** the obligation on the state to enforce its own court orders is more onerous that had previously been suggested in ***Glaser v United Kingdom*** at para [70]. Professor Douglas correctly pointed out that ***Ignaccolo-Zenide v Romania*** and ***Sylvester v Austria*** were both cases in which the delays complained about arose in the context of proceedings under the Hague Convention on the Civil Aspects of International Child Abduction. She speculated as to whether the Court had thus been *"influenced by the summary nature of abduction proceedings"* or whether the Court's approach was in fact *"a general one regarding delays in family matters, rather than one focussed exclusively on the special nature of abduction cases."* She went on to suggest that if the latter view turned out to be correct then there might be significant implications for our domestic practice. In fact the matter has since been resolved by the Court which, in ***Hansen v Turkey*** at para [107], reiterated in a non-Hague Convention case the approach it had earlier adopted in both ***Ignaccolo-Zenide v Romania*** and ***Sylvester v Austria.***

35. Not least in the light of the Strasbourg jurisprudence there is no room for complacency about the way in which we handle these cases. The Court of Appeal has sounded the wake-up call. As Thorpe LJ said in ***Re T (Contact: Alienation: Permission to Appeal)*** [2002] EWCA Civ 1736, [2003] 1 FLR 531, at para [25*]: "I reject [counsel's] dismissive submission that the Strasbourg cases add nothing to the domestic jurisprudence. Those cases as they stand suggest that the methods and levels of investigation that our courts have conventionally adopted when trying out issues of alienation may not meet the standards that Arts 6 and 8 … require. There are policy issues here that the Government and the judiciary may need to consider collaboratively."*

The general force of this observation is in no way diminished by the fact that two of the Strasbourg cases referred to by Thorpe LJ (the decisions of the Fourth Section of the Court in *Sahin v Germany* (2001) 36 EHRR 765, [2002] 1 FLR 119, and ***Sommerfeld v Germany*** (2001) 36 EHRR 565, [2002] 1 FLR 119) have in effect been reversed by the recent Grand Chamber decision in ***Sahin v Germany, Sommerfeld v Germany*** [2003] 2 FLR 671. The particular point being made by Thorpe LJ may yet have to be reconsidered in the light of this subsequent development in Strasbourg, but the general point remains. We can no longer simply complacently assume that our conventional domestic approach to such cases meets the standards required by Article 6 and Article 8.

36. In my judgment the two great vices of our present system are:

i) that the system is, for all practical purposes, still almost exclusively court based; and

ii) that the court's procedures are not working, and not working as speedily and efficiently, as they could be and therefore as they should be.

Let me deal with these two points in turn.

37. As Wall J said in ***Re O*** at para [6], *"contact disputes are best resolved outside the court system."* I emphatically agree. And, as he went on to point out, *Making Contact Work* identified a number of ways in which this could be achieved. Some of these, as *Making Contact Work* made clear, require legislation; others, although not requiring legislation, require what was described as "significant additional funding". Although there are now signs that things are moving – in December 2003 the Department of Constitutional Affairs published *The Final Report of the Child Contact Facilitation and Enforcement Group* and on 19 March 2004 the Department of Constitutional Affairs and the Department for Education and Skills announced pilot schemes for mediation – the response from Government has hitherto been slow and disappointing.

38. In April 2003 an independent organisation, New Approaches to Contact, held a seminar, chaired by Bracewell J, to unveil the exciting proposals contained in *Contact Dispute Resolution: Early Interventions – Towards a Pilot Project*. Reflecting experience in the United States of America, particularly in Florida, NATC proposed a system under which:

i) On issue of proceedings the parents are diverted into a non-court process involving (a) court-issued information, (b) parent education and (c) contact-focussed mandatory mediation.

ii) Residual cases where agreement has not been reached re-enter the court system and are streamed into two categories: (a) non-serious cases admitting of rapid disposal and (b) serious cases which are given increased attention.

One of the advantages of such a system is that the number of cases requiring significant judicial input can be substantially reduced, enabling more court time to be devoted to those cases – which will, moreover, have been identified at an early stage – requiring greater judicial input. At the end of the seminar, and referring to NATC's proposals, Bracewell J said that "a pilot scheme … has my strong support … this is the way forward." I wholeheartedly agree. There is, I believe, much we can learn from our trans-Atlantic cousins.

39. In ***Re S*** at para [12] the President said this*: "Recent proposals, supported by the Government, have been made to promote pilot projects for early intervention which it is hoped will encourage parents to resolve their differences over their children before any court hearing. Such initiatives are much to be welcomed."*

That was said before the Government announced its most recent proposals. Some will be disappointed – and I can understand why – that the Government's very recently announced pilot scheme proposals only encourage the use of mediation and do not make it mandatory.

40. The sooner we can get to a situation where as many contact disputes as possible are removed from the court-room setting the better. But, however great the financial and other resources that may be made available for non-court methods of contact dispute resolution, the courts will inevitably continue to have a major role to play. How can the courts' procedures be improved?

41. There are no simple solutions. There are no panaceas. What may be the appropriate solution in one case may be wholly inappropriate in another superficially similar case. I entirely agree with Wall J's comment in ***Re O*** at para [6] that: *"Disputes between separated parents over contact to their children are amongst the most difficult and sensitive cases which judges and magistrates have to hear. Nobody should pretend that they are easy, or that there is any one size fits all solution."*

Thus Wall J was careful to emphasise in ***Re M*** that use of the section 37 procedure is not a panacea (see at para [7]) and to make the same point in ***A v A*** when he made clear at para [24] that shared residence orders, although they have their place and may be an invaluable tool in the right case, are likewise not a panacea. As he observed in *Re M* at para [11], *"each case is different, and what fits one may not fit another."*

42. Recognising all this, there are nonetheless a number of things that can, and I believe must, be done, and done as a matter of urgency. I focus here on what the judges can do themselves, and do, I emphasise,

without either legislation or additional funding. What is needed – all that is needed – is a protocol supported by a President's Practice Direction.

43. There is, I believe, merit in the courts adopting a twin-tracking approach:

    i) The simpler and more straightforward cases should be put on a fast track, where the overall court timetable is measured in weeks rather than months. In dealing with fast-track cases, even if they have entered the system in the County Court, greater use should be made of the skill and expertise of the lay justices and District Judges (Magistrates) who sit in the Family Proceedings Courts. The FPCs are an invaluable and, at least in private law cases, a seriously under-used resource.

    ii) The more serious and complex cases should be allocated to what for want of a better expression, and borrowing from the CPR, I will call the multi-track, where the overall timetable, even if it cannot be measured in weeks must at least be measured in months rather than years.

    It could perhaps be the responsibility of the District Judge in the County Court to allocate every private law case to the appropriate track and, where appropriate, transfer fast track cases down to the FPC.

44. What can be done to improve the handling of multi-track cases?

45. The first thing is to tackle the problem of delay. The delays in the present case were scandalous. No case of this kind should take anything remotely approaching five years to resolve. It is almost impossible to see how such a timescale can ever be compatible with the requirements of the Convention, however much it may be said that the proceedings have become protracted by reason of the behaviour of one or other or both parents. Unhappily, the present case is far from unique. In *Re M* there was what Wall J referred to (at para [19]) as "inexcusable delay". In *Re O* there were what he referred to (at para [52]) as "very substantial delays". This is merely the (reported) tip of the iceberg. Everyone involved in the family justice system will know from their own experience or anecdotally of many such cases. At about the same time as I was dealing with this case I was involved in two other private law cases where there had been equally unacceptable delays. I have had another since.

46. Delay is the scourge of the family justice system. There are many causes for this. They have been considered on many occasions, most recently, in the context of public law proceedings under Part IV of the Children Act 1989, by the Lord Chancellor's Advisory Committee on Judicial Case Management in Public Law Children Act Cases, whose final report in May 2003 led to the publication in June 2003 of the *Protocol for Judicial Case Management in Public Law Children Act Cases* ("the Protocol") which came into force on 1 November 2003: see *Practice Direction (Care Cases: Judicial Continuity and Judicial Case Management)* [2003] 2 FLR 719 at p 798. The Protocol addresses these problems in relation to public law cases. Nothing effective has yet been done to address the equally pressing problems in relation to private law cases.

47. In relation to public law cases the Committee's Report at para 4.1 stated the paramount objective of the Protocol as being to improve the outcomes for children by reducing unnecessary delay. At para 4.2 it identified a number of key elements to the achievement of that paramount objective, including *"the highest practical level of judicial continuity and case management"* (para 4.2.1) and timetabling of all cases to final hearing at the earliest practical stage and the reduction of intermediate hearings to no more than four (para 4.2.3). This latter objective is to be achieved (see para 5.1(d) of the Practice Direction) by a case management conference, designed to enable the case management judge to actively case manage the case and *at the earliest practicable opportunity* to identify the relevant issues and fix the timetable for all further directions and other hearings, including the date of the final hearing.

48. I see no reason why comparable principles should not be applied in relation to all but the simplest or most straightforward private law cases. Like Wall J (see ***Re O*** at para [57]) I have a strong belief in judicial continuity. Like him (see ***Re M*** at paras [11], [19]) I believe that judicial continuity in private law cases of any complexity is essential, because, if delay is to be minimised, what he aptly referred to as "strict judicial control" is required. ***A v A,*** as he pointed out at para [9], was a private law case that clearly demonstrated the benefits of judicial continuity. I do not suggest that private law cases need procedures as complicated and prescriptive as those set out in the Protocol. But what is needed is a corresponding

Protocol which borrows from the public law context the key principles of judicial continuity, case management and, most crucially of all, timetabling.

49. What is needed for effective case management in private law cases? The key components are not too difficult to identify:

i) Judicial continuity: Every private law case of any complexity must be allocated to a single or at most two judges.

ii) Timetabling: The allocated judge must set an overall timetable for the case at the earliest practicable stage. The simpler cases should be timetabled to last weeks rather than months. Even serious and complex cases should be timetabled so that they are concluded within a period measured in months rather than years.

iii) Strategy: Proper judicial control and judicial case management requires what Wall J referred to in ***Re M*** at para [115] as "*consistency of judicial approach*" within the context of a judicially set *"strategy for the case"*. This must form what he described at para [118] as "part of a wider plan for [the] children, which … needs to be thought through."

50. What are the elements that go to make up an appropriate strategy for the case? There are no simple answers, for no two cases are the same. All one can do is to draw attention to a number of possible approaches that need to be borne in mind. I consider some of them, in no particular order.

51. As Wall J pointed out in ***Re M*** at para [15], intractable contact disputes are one of the "prime categories" for separate representation of the children. I agree. I also agree that in this situation the court can with great advantage make use of organisations such as the National Youth Advisory Service (NYAS), an organisation whose assistance in *A v A* was justifiably lauded by Wall J (see at paras [24], [131]-[133]).

52. But children caught up in intractable contact disputes may need more than the forensic assistance of a guardian. Guardian's reports, though immensely valuable, may not be enough. The children may need a social worker who can remain with them long enough to form a long-term relationship (see ***Re M*** at para [127]). The children and their warring parents will often need and can often benefit from skilled social work intervention. That was the thinking that lay behind the appointment of the independent social worker in the present case by the Circuit Judge on 31 August 2001: her most vital function was to facilitate the implementation of overnight contact. Sometimes this will work, at least in part. *A v A* provides a striking example. Sometimes it will not work. In the present case it did not, largely I think because the independent social worker first came on to the scene far too late, and at a time which can be seen, albeit perhaps only with the priceless advantage of hindsight, to have been well after the point at which the situation was in all probability wholly irretrievable.

53. We need to get away from the idea that experts are there simply to provide the court with reports. Directing reports can all too often turn into a source of further delay. *"Is your expert really necessary?"* is a slogan that has its uses. In this kind of case experts and other outside agencies can often be much more use helping to facilitate contact rather than writing reports – preparing mother and child for contact, actually being there at hand on Saturday morning to make sure that hand-over takes place, or even acting as the go-between if mother cannot bring herself to meet father and there is no independent friend or relative who can help.

54. False allegations of misconduct are highly damaging and destructive. I agree with Wall J when he said in ***Re M*** at para [12]: *"In an intractable contact dispute, where the residential parent is putting forward an allegedly factual basis for contact not taking place, there is no substitute … for findings by the court as to whether or not there is any substance to the allegations."*

The court should grasp the nettle. Such allegations should be speedily investigated and resolved, not left to fester unresolved and a continuing source of friction and dispute. Court time must be found – and found without delay –for fact finding hearings. Judges must resist the temptation to delay the evil day in the hope that perhaps the problem will go away. Judges must also resist the temptation to put contact 'on hold', or to direct that it is to be supervised, pending investigation of the allegations. And allegations which could have been made at an earlier stage should be viewed with appropriate scepticism. Once

findings have been made, everybody must thereafter approach the case on the basis of the facts as judicially found. As Wall J said in ***Re M*** at para [128], *"these are not questions which can be reopened."* He went on to point out that if a parent persists in assertions contrary to such judicial findings, that is plain evidence of a refusal to recognise reality and what is in the interests of the children.

55. A vital component in the strategy is the appropriate judicial response if and when things start to go wrong. One key element here, which I suspect is often not addressed, is the need for a clear and hard-headed approach to the timetable. There is a very difficult balance to be held. It was, if I may be allowed to say so, clearly put by the President in ***Re S*** when she observed at para [33] that: *"It is … most important that the attempt to promote contact between a child and the non-resident parent should not be abandoned until it is clear that the child will not benefit from continuing the attempt"*

having previously commented at para [29] that: *"One aspect of proportionality which has to be weighed in the balance is the length to which a court should go to force contact on an unwilling child and on the apprehensive primary carer. At this point the factor of proportionality becomes all-important since there is a limit beyond which the court should not strive to promote contact and the court has the overriding obligation to put the welfare of the child at the forefront and above the rights of either parent."*

56. Too often at present, once things start going wrong, it takes too long – too often far too long – to get in front of a judge who is in a position to take potentially decisive action. Judicial case management where the case is allocated to a single judge affords real opportunities to combat this problem, particularly if the parties are able to communicate with the judge, and the judge with the parties, by fax or e-mail. Other things being equal, swift, efficient, enforcement of existing court orders is surely called for at the first sign of trouble. A flabby judicial response sends a very damaging message to the defaulting parent, who is encouraged to believe that court orders can be ignored with impunity, and potentially also to the child. Thus, it may in some cases be appropriate for a judge who has concerns as to whether the contact ordered for Saturday will take place to include in the order a direction requiring the father's solicitor to inform the judge on Monday morning by fax or e-mail if there have been any problems, on the basis (also spelt out in the order so that the mother can be under no illusions as to what will happen if she defaults) that the mother will thereupon be ordered to attend court personally on Tuesday morning and immediately arrested if she fails to attend. The problem can then perhaps be nipped in the bud. There is no reason why in a case of serious recalcitrance or defiance where it is possible to establish a breach of the order the court should not, then and there, make an immediate suspended committal order, so that the mother can be told in very plain terms that if she again prevents contact taking place the following Saturday she is likely to find herself in prison the following week.

57. It may be that committal is the remedy of last resort but, as Wall J recognised in ***Re M*** at para [115], the strategy for a case may properly involve the use of imprisonment. Interestingly he seems to have accepted (see at para [117]) that imprisonment even for a day might in some cases be an appropriate tool in the judicial armoury. I agree. A willingness to impose very short sentences – one, two or three days – may suffice to achieve the necessary deterrent or coercive effect without significantly impairing a mother's ability to look after her children.

58. I emphasise that these are only ideas, and that they are far from being comprehensive. There are no simple solutions. And it is idle to imagine that even the best system can overcome all problems. The bitter truth is that there will always be some contact cases so intractable that they will defeat even the best and most committed attempts of judges. But that is no reason for not taking steps – urgent steps – to improve the system as best we can.

59. Whether an improved system would have provided a better outcome for this child and this father is now almost impossible to know. Perhaps it would. Perhaps not. But they were denied the chance of a better outcome, and for that they deserve a public, albeit necessarily anonymous, apology. We failed them. The system failed them.

ANNEXE : HISTORY OF THE LITIGATION

	Date	Judge	Applications and Orders	Rep's[1]
	2.11.1998		Parties separate	
	11.11.1998		M's divorce petition	
	12.11.1998		M's applications for residence and injunctions	
1	27.11.1998	DJ A	Consent order: M: interim residence F: contact each Saturday 10am-5.45pm	
	14.1.1999		F's application for residence	
	24.2.1999			CWO
2	4.3.1999	DJ B	Order: List for final hearing on 30.6.1999 (t/e 1 day)	
	1.4.1999		F's application for penal notice to be attached to order of 27.11.1998	
3	21.4.1999	DJ C	Order: List for directions on 29.4.1999 Vacate hearing on 30.6.1999	
4	29.4.1999	DJ A	Order: List for hearing of F's application for penal notice on 7.6.1999 (t/e 1 hour)	
5	7.6.1999	HHJ F	Consent order: F: weekly contact for 2 hours at contact centre	
6	30.6.1999	HHJ F	Order: Adjourn to 12.7.1999 (t/e ½ day) M: interim residence F: weekly contact for 2 hours at contact centre + 2 periods of observed contact to be supervised by CWO	
7	12.7.1999	HHJ G	Consent order: Adjourn to 27.9.1999 (t/e 3 hours) M: interim residence F: weekly contact for 2 hours at contact centre + 2 periods of observed contact to be supervised by CWO (with penal notice)	
	18.8.1999		F's application for committal	
8	25.8.1999	HHJ G	Order: Dispense with personal service of the committal application	
	13.9.1999			CWO
9	16.9.1999	HHJ H	Order: Committal application withdrawn F: observed contact to be supervised by CWO on 17.9.1999	
10	11.10.1999	DJ D	Order: List for hearing on 28.10.1999 (t/e 3 hours)	
11	28.10.1999	Rec I	Order: Adjourn for final hearing on 19.1.2000 (t/e 1 day)	
	9.11.1999		F's application for interim contact	
12	8.12.1999	HHJ J	Order: F: contact for 2 hours at contact centre on 4 occasions 11.12.1999- 15.1.2000 (with penal notice)	
	19.1.2000			CWO
13	19.1.2000	HHJ K	Order: Adjourn F's application List for review on 12.3.2000 (t/e 2/3 hours) F: weekly contact for 2 hours at contact centre until 12.2.2000; then unsupervised weekly contact for 3 hours	
14	17.3.2000	HHJ K	Order: Matter to remain in list for 12.4.2000	
	7.4.2000			CWO

15	12.4.2000	HHJ L	Order: List for final hearing on 29.6.2000 (t/e 2 days) F: weekly contact for 2 hours at contact centre for 3 weeks; then unsupervised weekly contact for 3 hours (with penal notice)	
	22.4.2000		F's application for committal	
16	26.4.2000	HHJ G	Order: M committed for 7 days (suspended)	
	9.5.20000		F's applications for transfer to High Court, appointment of OS to act for child and committal	
17	12.5.2000	HHJ H	Order: List for final hearing on 5.7.2000 (t/e 2 days) Committal application adjourned to 5.7.2000 Invite OS to act Revoke contact order of 12.4.2000 F: weekly contact for 2 hours at contact centre (with penal notice)	
	28.6.2000		Official Solicitor declines to act	
18	29.6.2000	HHJ F	Order: List for directions on 3.7.2000	
19	3.7.2000	HHJ F	Order: Hearing on 5.7.2000 to proceed	
20	5.7.2000	HHJ F	Order: Applications adjourned pending receipt of expert report from clinical psychologist List for directions on 3.11.2000 (t/e 30 mins) F: weekly contact for 2 hours at contact centre (no penal notice)	
	25.9.2000		F's application for SIOs (change of name, school and religion)	
	25.9.2000		Notice: hearing listed on 3.11.200 relisted for 7.11.2000	
	16.10.2000		M's application for non-molestation order	
	17.10.2000		F's application for committal	
21	17.10.2000	HHJ K	Order: Committal application withdrawn Adjourn to 15.12.2000 (t/e 30 mins) (i) the directions hearing on 7.11.2000 (ii) M's application for non-molestation order and (iii) F's application for SIOs Expert's report to be filed by 1.12.2000	
	30.10.2000		F's application for return of his passport	
22	9.11.2000	DDJ E	Order: Adjourn F's passport application to 15.12.2000	
	7.12.2000		M's applications for order that there be no contact pending final hearing and non-molestation order	
23	15.12.2000	HHJ G	Order (1): Dismiss application for penal notice to be attached to order of 5.7.2000 Adjourn applications for (i) non-molestation order (ii) return of passport and (iii) suspension of contact to 4.1.2001 List for final hearing (t/e 3 days) on first available date after 16.3.2001 Expert's report to be filed by 16.2.2001 Order (2): Non-molestation order against F until 4.1.2001	
24	4.1.2001	DJ B	Order (1): F's passport released F: weekly contact for 2 hours at contact centre (with penal notice) Order (2): Non-molestation order against F until 4.7.2001	
	19.1.2001		F's applications for committal, interim residence, PSO and penal notice	
	2.2.2001			CCP
25	20.2.2001	HHJ L	Order (1): M committed for 14 days Order (2): Section 37 report within 8 weeks List for interim contact hearing on 6.3.2001 (LA to attend)	

			F: weekly contact for 2 hours at contact centre (with penal notice)	
26	6.3.2001	HHJ L	Order: Adjourn committal application to 19.3.2001 List final hearing on 29.8.2001 (t/e 2½ days) Extend time for section 37 report to 1.5.2001 F: weekly contact for 7 hours starting 17.3.2001 (with penal notice) Reserve to HHJ L	
	27.4.2001		F's application for committal	
	26.4.2001			S 37
27	27.4.2001	HHJ L	Order: Dismiss all committal applications List for hearing on issue of staying contact on 29.6.2001 before HHJ L (t/e 2 hours) F: weekly contact for 7 hours (with penal notice)	
28	29.6.2001	HHJ L	Judgment Order: F: contact for 4 hours on 2.8.2001 (D's birthday) (with penal notice)	
29	31.8.2001	HHJ L	Judgment Order: M: residence F: weekly contact for 7 hours for 3 weeks; then from 21.9.2001 weekly contact from 5pm Friday to 5pm Saturday (no penal notice) ISW (Mrs B) to facilitate implementation of overnight contact Directions as to D's name and school List for review on 13.12.2001 (t/e 1 hour) Reserve to HHJ L	
	5.10.2001		F's application for committal	
30	5.10.2001	DJ B	Order: Substituted service of committal application	
	8.10.2001			ISW
	9.10.2001		M's application for order that F deposit his passport with court	
31	11.10.2001	HHJ L	Order: Adjourning committal application with liberty to restore	
	18.10.2001			ISW
	26.10.2001			ISW
	16.11.2001		F's application for defined contact	
	30.11.2001			ISW
32	30.11.2001	HHJ L	Order: F: contact for 7 hours on 1.12.2001 and from 5pm on 7.12.2001 to 5pm on 8.12.2001 (with penal notice)	
	10.12.2001			ISW
33	10.12.2001	DJ C	Order: Disclosure of M's address to process server	
	10.12.2001		F's applications for residence and committal	
34	13.12.2001	HHJ L	Order: Transfer matter to High Court List for urgent directions	
35	22.2.2002	Sumner J	Order: List for interim contact hearing and hearing of committal application on 26.3.2002 (t/e 1 day) Directions for expert evidence F: indirect contact by weekly cards, letters and small presents	
	25.3.2002			CCP
36	26.3.2002	Kirkwood J	Consent order: List final hearing on residence 9.7.2002 (t/e 1 day) Directions for expert evidence	

			CAFCASS to nominate a children's guardian F: contact as per schedule (2 or 3 hours on specified days from 2.4.2002 to 6.7.2002)	
37	24.4.2002	Kirkwood J	Order appointing guardian	
	3.7.2002			GaL
	5.7.2002			ISW
38	9.7.2002	Charles J	Order: List for directions on 17.10.2002 (t/e 30 mins) List for final hearing on 15.1.2002 (t/e 3 days) Directions for expert evidence (including for psychiatric examination of M) F: indirect contact fortnightly as per schedule	
	17.7.2002			ISW
	26.9.2002			CP
	9.10.2002			CCP
	10.10.2002			ISW GaL
39	17.10.2002	Charles J	Order: F: indirect contact fortnightly as per schedule	
	12.12.2002			ISW
	8.1.2003			GaL
40	15.1.2003	Munby J	Hearing	
	27.1.2003	Munby J	Order: Adjourn F's applications for residence and contact List for review and further directions on 17.3.2003 (t/e 2 hours) and 29.4.2003 (t/e 1 day) Family Assistance Order to guardian Programme of work with M to be carried out by ISW and guardian F: indirect contact as per schedule to be facilitated and assessed by the ISW and guardian; direct visiting contact as advised or recommended by ISW and guardian Reserve to Munby J	
	18.2.2003	Munby J	Judgment	
	7.3.2003			GaL
41	17.3.2003	Munby J	Order: List for review on 29.4.2003 (t/e 2 hours) and 14.7.2003 (t/e ½ day): guardian to indicate by 17.4.2003 if hearing on 29.4.2003 required Further programme of work with M to be carried out by guardian and/or ISW Order of 27.1.2003 to continue	
	15.4.2003			GaL
42	23.6.2003	Munby J	Order: Vacate hearing on 14.7.2003 List for final hearing on 10.11.2003 (t/e 2 days) Order of 27.1.2003 to continue (F acknowledging that there will be no contact until final hearing)	
	27.10.2003			GaL
43	11.11.2003	Munby J	Order: F: leave to withdraw application for residence F: indirect contact on eight occasions each year as per schedule	

Note 1 CWO: court welfare officer; CCP: consultant clinical psychologist; ISW: independent social worker; GaL: children's guardian; CP: consultant psychiatrist.

The names of counsel and solicitors are omitted in the interests of the parties' anonymity