Case No: ZW18C00014

IN THE FAMILY COURT AT WEST LONDON

West London Family Court,
Gloucester House, 4 Dukes Green Avenue
Feltham, TW14 0LR

Date: 15/08/2018

Before :

HIS HONOUR JUDGE WILLANS

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Between :

LONDON BOROUGH OF Z — **Applicant**

- and –

(1) B — **Respondents**
(2) C
(3) A (by her Children's Guardian)
(4) D (Intervenor)

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Mr Jonathan Evans for the **Applicant**
Ms Victoria Green for the **First Respondent**
Ms Alison Easton for the **Second Respondent**
Ms Frances Orchover for the **Third Respondent**
Mr Ronan O'Donovan for the **Intervenor**

Hearing dates: 7 August 2018

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JUDGMENT

His Honour Judge Willans:

Introduction

1. The names in this judgment are anonymised using the following structure:

    a. A is the child subject to the proceedings.
    b. B is the child's mother
    c. C is the child's father
    d. D is the child's brother
    e. E is the reporting Child and Adolescent Psychiatrist
    f. Z is the interested local authority

    References are to the final hearing bundle.

2. I am required to determine an application by Z for permission to withdraw care proceedings in relation to the child A (aged [*x*]). This application was supported by all the other parties to the proceedings and I am satisfied I should give such permission. At a hearing on 7 August 2018 I gave the permission sought and indicated I would provide my reasons for reaching this conclusion in short order. This judgment sets out my reasoning. I have considered the documents contained within the final hearing bundle and the written and oral submissions of the representatives for each party.

3. The hearing before me was initially listed as an 8-day fact finding. Z asked the Court to make findings that B and D had inappropriately physically abused A. Further Z asked the Court to find that D had sexually abused A. Lastly, Z sought findings against B and C of neglect including a failure to protect. The details of the allegations (which it is not necessary to recite within this judgment) can be found at A100-107. At a pre-trial review on 20 July 2018 Z indicated its intention to seek to withdraw and the hearing was consequently reduced to 2 days.

Background

4. It is sufficient for me to summarise the background to this application. In setting out this background I appreciate that there are significant differences of opinion between the parents and Z. This section should not be understood to set out findings of facts but rather to be an attempted neutral overview of how the case came to appear before me. I return later to my analysis of relevant features.

5. I take into account the social work chronology at C7. This document makes clear that this was not a family with a lengthy and troubling history of local authority or multi-agency involvement. Problems are said to have first arisen in March 2017. The report is of A raising concerns at school as to D's physical treatment of her and of B's use of derogatory language towards her. A was reported as expressing the concern that D's behaviour had been 'going on' for several years and that the parents were no longer treating this seriously. Over the early summer/summer period reports were received of A expressing suicidal ideation. The police were involved and A alleged D had been physically abusive to her. Shortly afterwards she reported to school being blamed for involving social services and for making things up. A was reported to be seeking support from CAMHS (child and adolescent mental health services). A child and family assessment was concluded in July 2017 but the parents were reported to not want any further agency involvement and were reported to be refusing to allow D to be spoken to or to make referrals for A. In September/October 2017 further concerns arose in respect of A self-harming in response to which B indicated she would be seeking help from a private counsellor. A was said to be concerned about returning home.

6. On 8 January 2018 A raised with the school the allegations which are central to this application. Police Protection measures were taken and she was ABE interviewed the next day. During the interview she repeated the allegations and expressed the wish to remain in foster care. In the days and weeks that followed A, B and D together with (I believe) 5 of A's friends from school were interviewed. Statements were also taken including from C.

7. Proceedings were initiated on 11 January 2018 and an interim care order was made on that day which has continued until 7 August 2018. Throughout this period A has remained in foster care and until very recently has had limited contact with C[1] but no contact with either B or D. A's initial Guardian and instructing solicitor were removed from acting for her at a hearing on 23 February 2018 due I understand to perceived professional embarrassment arising out of a meeting with her on 15 January 2018. At the same hearing a timetable was set for the case towards a PTR/Re W hearing[2] on 20 July 2018 and a fact-finding hearing commencing on 30 July 2018. E was directed to provide a report to assist the Court with its determination of the Re W issue in respect of both A and D.

8. At a hearing on 6 April 2018 the Court further considered case management and provided directions for E's report to be considered in the first instance by Z and the Guardian and for there to be an opportunity for consideration of any need for redaction prior to further dissemination. The basis for this related to A's perceived 'Gillick / Fraser' competence and her entitlement to withhold certain medical / personal details. In due course the complete report was disclosed without redaction although there remain contentions as to the timing of full disclosure. The report raised very significant matters which caused Z to reconsider its approach to the case and ultimately fed into its decision making to seek permission to withdraw the proceedings.

9. At hearings in July 2018 I was told tentative steps were being taken to facilitate direct contact between A and B. In the light of E's report these efforts took on additional importance. There appeared however to be continuing equivocation on the part of A as to contact with B. Perhaps surprisingly therefore on 30 July 2018 A messaged her social worker that:

> *"I think I want to go home..I miss my family, and I think therapy could help me stabilise things with them. I've been thinking about this since February and have finally made the decision. I miss everything about home, my parents, my room, the atmosphere…I miss having someone to hug and be comfortable with. I really do want to see my mum tomorrow and I'm a little nervous but excited".*

   I am told the contact occurred and was positive.

10. This is sadly a case in which there is a high level of distrust existing in the social work-parent relationship. I reach no conclusions as to the cause of the same at this point in my judgment. Nonetheless it appears on my reading of the case that it pre-dates the issue of proceedings. It has had a plain impact on the transition work planned for A on withdrawal of the proceedings. This is a case with obvious emotional complexity given there has been no findings of fact and therefore no formal resolution of the truth or otherwise of the allegations. There has been a clear fracture in the family for several months and it seems highly likely that real care and skill will be required to repair the family unit in the months to come. However, it is clear the parents no longer place any trust in Z and the transition planning is a scheme arising out of wider family planning with limited professional input.

Legal principles

11. In *A Local Authority v X, Y and Z (Permission to withdraw) [2017] EWHC 3741 (Fam)* Macdonald J. set out the applicable legal principles on an application to withdraw as follows:

> *48. Pursuant to FPR r.29.4(2), a local authority may only withdraw an application for a care order with the permission of the court. Where an application for permission to withdraw is mounted in proceedings in which the local authority is unable to satisfy the threshold criteria pursuant to s.31(2) of the Children Act 1989, then that application must succeed. However, where on the evidence before the court the local authority could satisfy the threshold criteria, then the court must consider whether withdrawal is consistent with the welfare of the child such that no order is required pursuant to s.1(5) of the Children Act 1989 (see Redbridge LBC v B and C and A (Through his Children's Guardian) [2011] 2 FLR 117). An application made pursuant to FPR r.29.4 involves the court determining a question with respect to the upbringing of a child for the purposes of s.1(1) of the Children Act 1989. In the circumstances, when considering an application for permission to withdraw an application for a care order, the child's welfare is the court's*

[1] On 3/4 occasions
[2] Re W [2010] UKSC 12

paramount concern (see London Borough of Southwark v B [1993] 2 FLR 559 at 572). However, an application for permission to withdraw proceedings falls outside the scope of s.1(4) of the Children Act 1989 and therefore there is no requirement to have regard to the welfare checklist in s.1(3) of the Children Act 1989.

*49. With respect to the former situation where an application for permission to withdraw is mounted in proceedings in which the local authority is unable to satisfy the threshold criteria, in considering whether the threshold criteria can be made out it is important to recall the reminder given by the President in **Re A [2015] EWFC 11** at [12] of the need to link the facts relied upon by the local authority with its case on threshold:*

> *'The second fundamentally important point is the need to link the facts relied upon by the local authority with its case on threshold, the need to demonstrate why, as the local authority asserts, facts A+B+C justify the conclusion that the child has suffered, or is at risk of suffering, significant harm of types X, Y or Z. Sometimes the linkage will be obvious, as where the facts proved establish physical harm. But the linkage may be very much less obvious where the allegation is only that the child is at risk of suffering emotional harm or, as in the present case, at risk of suffering neglect. In the present case, as we shall see, an important element of the local authority's case was that the father "lacks honesty with professionals", "minimises matters of importance" and "is immature and lacks insight of issues of importance". May be. But how does this feed through into a conclusion that A is at risk of neglect? The conclusion does not follow naturally from the premise. The local authority's evidence and submissions must set out the argument and explain explicitly why it is said that, in the particular case, the conclusion indeed follows from the facts.'*

*50. With respect to the latter situation, where on the evidence before the court the local authority could satisfy the threshold criteria, in **J, A, M and X (Children) [2014] EWHC 4648 (Fam)** at [30], Cobb J considered that in order for a case to fall into the category of cases in which the local authority is unable to satisfy the threshold criteria, and hence into the category of cases in which the application for permission must be granted, the inability on the part of the local authority to satisfy the threshold criteria should be "obvious"*

51. Within this context, in J, A, M and X (Children), Cobb J considered the proper approach to an application for permission to withdraw care proceedings in a case where it was possible that the threshold might be crossed, depending on the court's construction of the evidence. In such a case, Cobb J concluded that, before considering whether the local authority should be given permission to withdraw, the court must first determine whether or not it should proceed with a fact-finding exercise by reference to the factors set out by McFarlane J (as he then was) in A County Council v DP, RS, BS (By the Children's Guardian) [2005] 2 FLR 1031. Those factors, which in their totality embody the concepts of both necessity and proportionality, are as follows:

a) the interests of the child (relevant not paramount);
b) the time the investigation would take;
c) the likely cost of public funds;
d) the evidential result;
e) the necessity of the investigation;
f) the relevance of the potential results to the future care plans for the child;
g) the impact of any fact-finding process upon the other parties;
h) the prospects of a fair trial on the issue;
i) the justice of the case.

52. Having considered the factors set out in A County Council v DP, RS, BS (By the Children's Guardian) within this context, and determined whether a fact-finding enquiry should be undertaken, the court should then cross-check the conclusion reached having regard to the best interests test under s.1(1) of the Children Act 1989 in reaching its decision on the application for permission to withdraw proceedings (J, A, M and X (Children) at [35]).

53. Finally, it is important to note that, notwithstanding the emotive subject matter of these proceedings, the court's power under FPR r.29.4 to grant a local authority permission to withdraw proceedings constitutes, to paraphrase Cobb J in J, A, M and X (Children) an objective and dispassionate check on whether the local authority should be entitled to disengage from proceedings."

12. I further remind myself of the underlying principles of any fact-finding hearing: that it is for the party making the allegation to prove the allegation; that the test for establishing an allegation is the ordinary balance of probability; that once established to this level the allegation becomes a finding of fact and that if not established to this level it is thereafter treated by the Court as having not happened. Last, there is no legal duty on the party subject to the allegation to disprove the allegation.

13. Z argues that this is a case in which the Court must permit withdrawal on the basis that Z's inability to satisfy the threshold is 'obvious'.

14. I have considered this submission with care and asked myself whether this is a case in which Z could make out the threshold. In my judgment this case departs from an analogy with cases such as *Re ABCDE [2018] EWHC 1841 (Fam) per Knowles J.* in which the Court explained as to why the local authority could not establish a causative link between the conduct complained of and consequential significant harm to the children. There the parents may have been found to have held extremist beliefs but there was an absence (despite significant local authority engagement) of evidenced impact upon the children. Likewise, in *A Local Authority v X, Y and Z* Macdonald J. (in similar circumstances to *Re ABCDE*) cautioned against the assumption of being able to draw a straight line between the beliefs of the parents and harm or risk of harm to their children. In contrast this is a case in which the likelihood of significant harm is strong if the matters alleged are found to have occurred. In that regard the case has closer parallels with *J, A, M and X* (a case of alleged non-accidental injury) – in short, the causative link is a much clearer path.

15. I have been left in considerable doubt as to the propriety of concluding that this is a case in which Z could not prove the threshold and that such a conclusion is obvious. I remind myself that I have heard no evidence in a case in which allegations have been made and neither withdrawn nor retracted. Whilst I will refer to the evidence in a little more detail below this is not a case in which there are features which fundamentally undermine the allegations. This is a case which would turn on the respective credibility of the key witnesses. In such circumstances a conclusion as to obviousness would come close to a rejection of the allegations. I do not see how I can fairly reach that conclusion.

16. In my assessment this is not a case in which I can properly find that Z could not in theory prove its allegations taking the case at its highest but for the reasons which I give below it is nonetheless appropriate to grant it permission to withdraw its application. In doing so I follow the guidance of Cobb J. as set out in paragraphs 51-52 above.

Discussion

17. The following matters are relevant to my conclusion.

18. First, the ultimate (fact-finding) determination in this case would require a comparative assessment as to the honesty/credibility of the key family members. A alleges B and D have misconducted themselves. Both B and D deny the allegations.

19. That being the case there is little if anything in the form of corroborative evidence to support the allegations. This is not a case in which the Court has received independent corroborative witness testimony or medical evidence in support of the physical chastisement allegations. This heightens the uncertainty surrounding the question of findings.

20. I make this observation in the knowledge that I have received statement evidence from (I think) five school peers of A. I have considered this evidence with care but, it is largely heresay evidence of reports made by A to her friends. It does not appear to be in the form of an immediate complaint and is lacking in detail. The statement evidence does make significant comment as to the actions of D whilst in the home but I am bound to observe that this appears almost impossible to disentangle from ordinary teenage behaviour and is very likely to fall short of providing real support for the allegations. Indeed, as one of the statements observe the behaviour was the sort of thing that happens between teenage siblings. Equally, the observations as to the relationship between A and B expressed to the friends does not evidence the allegations in dispute but rather suggests a difficult relationship between teenage daughter and mother – this falls some distance from section 31 significant harm.

21. Next, I have the evidence of E. Her report was provided to assist me with my Re W deliberations in respect of both A and D giving evidence. In a very detailed report E expressed the most serious concerns as to the process being followed and the consequent impact upon both A and D. She expressed serious concerns for their ongoing mental health of both children if the process continued and urged a quick resolution of matters. She explained in clear terms her opinion as to the possible motivations underlying A's complaints and concluded A was not Gillick competent. It is fair to observe that the receipt of this report caused Z to reconsider its position.

22. An important consequence of this report was the persuasive argument against either of A or D giving direct evidence and the likely significant impact and harm that would be occasioned to each were they to do so. Notwithstanding I was not required to conduct a Re W determination in respect of each child it is only right to observe that there were very strong grounds for holding the balance to fall against either child giving evidence. In the context of a case in which credibility would be central this would have posed a very difficult, if not insurmountable difficulty in resolving the case fairly whilst making findings.

23. This was further magnified by the observations E made as to the police ABE interview of A. I bear in mind that this is the central source for the allegations. It would have formed the examination in chief (or the totality of direct evidence from A if permission was not given for her to give evidence). I was concerned as to whether E in effect crossed the boundaries of her instructions and approached a position of attempting to give veracity opinion in her report. However, I do not need to make further observations in this regard as both Z and the advocates for the other parties all agree there were significant failings in the ABE interview process that would have called into question the weight that might have been put on the information obtained from the process (i.e. the allegations).

24. In making these observations I have reflected on paragraphs 9 of the position document filed on behalf of D in which E sets out some of her key concerns.

25. A more particular aspect of the evidence would have been a letter written by A in April 2018 ("the April Letter") in which she dealt with a range of points during which she observed:

> *"…lying is very easy for me, being fake is also very easy. I don't know how I got that trait as neither of my parents can lie well, nor can my brother, I mean it just comes naturally. Sometimes I think I've gone crazy, when other people find it hard to keep up an act I would stay in character…"*

In a case in which credibility would have been a significant consideration it is easy to see the relevance of these observations. A may have explained these words (<u>if she had given evidence)</u> but the words may well have left very significant lingering concern in the mind of the Tribunal.

26. I now turn to the discipline found in *A County Council v DP, RS, BS (By the Children's Guardian) [2005] 2 FLR 1031* (cited at 51 above) in considering whether a fact finding should be pursued:

<u>The interests of the child (relevant not paramount)</u>

I have considered the totality of the evidence. I have had regard to the report from E. I have reflected upon the recent sea change in attitude expressed by A. I reflect on the balance of evidential considerations set out above and the likely outcome of such an exercise against the impact of the same on the child. I am confident that A's interests are in opposition to a fact finding.

<u>The time the investigation would take</u>

There would be need for up to 8 days of Court time followed by time for disposal if required. I bear in mind that absent a Re W determination exactitude is impossible. It may be the

timing would be reduced if child evidence was not heard. However, as I understand the positions there remained a question as to the approach to be taken to the other 5 child statement givers. The likelihood would have been of a requirement for considerable Court time.

The likely cost to public funds

This would be significant having regard to the length of the hearing and the number of parties.

The evidential result

I cannot reach a clear conclusion but it should be clear from my observations above that I am hesitant as to whether the allegations would be proven given the state of the evidence. There is a likelihood that I would not be much further advanced in my understanding at the end of the hearing.

The necessity of the investigation

Is an investigation necessary when the planning is developing towards rehabilitation; when A is expressing strong views to return home and when the expert evidence available suggests that further close examination of the matters in dispute would be positively harmful to A? In my judgment it is not.

The relevance of the potential result to the future care plans for the child

For the reasons I have touched upon above it is questionable how relevant the potential result is when considering the future plans for A.

The impact of any fact-finding process upon the other parties

I have concern for D in this regard. I will develop my thoughts in a section below but it suffices to note the observations of E as to her being '*very concerned at the impact on [D's] mental health'* and observing a need for urgent therapeutic support for him. At a lesser albeit significant level it is clear this process has had a highly damaging impact upon both B and C. I bear this in mind.

The prospects of a fair trial on the issue

I am doubtful a fair trial could have been properly had in the absence of evidence from the children. Yet there were very strong counter arguments against such an approach. I did not determine the Re W issue but I am reflectful as to what such a determination may have meant for a fair hearing.

The justice of the case

The key participants (A – D) deserve a fair and speedy resolution if they are to have the chance for a return to some form of normality and stability in their lives.

27. I have considered the material with care and listened to the arguments of all the parties. I have concluded Z should have permission to withdraw the application for a care order. The checklist set out above in my assessment supports such a conclusion with all individual factors balancing in this direction and the cumulative account being clearly in such direction. I have applied an overall welfare test to my decision. I am satisfied it is neither proportionate nor in A's interests to subject the family to such a process. All parties including A's guardian agree with such an outcome.

28. Where does this leave the allegation? I adopt the clear explanation of Cobb J. (see *J, A, M and X*) which is equally applicable on the facts of this case and is consequent upon withdrawal (under either limb):

> *70. I can do no better than to apply the principles most clearly set out in the speech of Lord Hoffman in* Re B *[2008] UKHL 35, [2009] AC 11:*
>
> "*If a legal rule requires a fact to be proved (a 'fact in issue'), a judge or jury must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are zero and 1. The fact either happened or it did not. If the tribunal is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of zero is returned and the fact is treated as not having happened. If he does discharge it, a value of 1 is returned and the fact is treated as having happened*."
>
> *71. By reason of the withdrawal of the proceedings, the allegation of non-accidental injury now scores a zero.*
>
> *72. It follows that the lives of this family should now proceed on the basis that the injuries to X were no more or less than a terrible, fluke, accident. There is not even room for a suspicion that the injuries were caused in any other way. The family, and the professionals around them, should proceed now on the basis that no-one (and I include in this of course M) is to blame for X's injuries.*

29. In the context of this case this means the lives of the family should proceed on the basis that the matters alleged did not happen and that there is no room for suspicion in any other way. The professionals should proceed on the basis that B and D are not to responsible as alleged. The draft recitals properly convey this outcome.

30. This is however not the same as a finding of falsehood which D had at one point considered pursuing. I heard no evidence to enable me to make such a finding.

Other matters

31. The parents and D ask me to make critical observations as to the conduct of the proceedings in certain significant regards. To an extent their criticisms touch upon both Z and the Guardian. Both Z and the Guardian ask me to approach this question with considerable care.

32. I agree I must take care. It is plain to me that this is a case in which there has been an elevated level of family/authority distrust from an early stage (including pre-proceedings). I cannot close my eyes to the possibility that there may be responsibility to be shared on all sides yet I have not heard evidence to help me disentangle the various strands of the dispute and attempt to place comparative responsibility. As such I consider it would be both unhelpful and positively dangerous to attempt such an endeavour based on limited submissions alone.

34. I feel it is appropriate to comment on the following points.

<u>Maintaining a dispassionate overview</u>

35. Criticism is made as to the failure to maintain an impartial approach to the fact-finding endeavour.

36. I of course share the observations made by counsel for D in which he sets out the guidance found in *AS v TH (False Allegations of Abuse) 2016 EWHC 532 (Fam).* The heart of this authority is the care that must be taken in investigating child based allegations and the importance of retaining a dispassionate and balanced approach to the allegations. Linked to this is the need to avoid a blinkered approach homing in on the allegations at the cost of other valuable evidence. Such evidence includes the family circumstances and the quality of the parenting. To avoid the risk of adding to the existing

harm a rigorous application of practice and procedure geared towards ensuring a proper investigation is essential. This authority continues to remind practitioners as to the guidance provided more than three decades ago by the Cleveland Report.

36. In this case E has set out concerns[3] which legitimately call in to question whether a rigorous impartial approach was maintained. I have been told as to expressions on behalf of the original Guardian as to A '*being believed*'. Such expressions are inconsistent with good practice and may in time create a greater injustice and damage to the child than the perceived harm of maintaining a neutral approach in the face of the child making allegations.

37. I note the formulation of wording in the originating application [B9] that:

> *The Local Authority is concerned that the parents appear to disbelieve the allegation that has been made…the Local Authority is of the view that [A] has suffered significant harm…*

As a starting point for the case it is easy to see how a statement in such form may cause the investigation to depart from good practice. Here the parents are being criticised for disbelieving the allegation which suggests Z does believe it. It would have been as easy to raise the concern in more neutral terms such as '*is concerned the parents are not taking the allegation seriously' or 'refusing to accept the allegation might be true'*. The second part of the extract is a statement of fact which could have been as appropriately conveyed by use of neutral language such as '*the Local Authority considers there is significant evidence to indicate A has suffered significant harm…'*.

38. It is only fair to observe that this was a case in which Z were justified in both investigating the allegations and instituting proceedings. The concern is that the direction of the proceedings may have been affected by Z's somewhat blinkered approach to the allegations. Furthermore, the approach of the original guardian may well have entrenched A's position. That this is the case is perhaps best shown by the rapid change in attitude on the part of A in recent times. Having considered E's report I am left with the impression that A may have required the emotional permission to put the allegations behind her and move forward by returning to her family. In such a context an overly adversarial approach to the allegations may have stymied such a reconciliation.

The April Letter

39. It is in the above context that questions as to the April letter arise (see extract at 25 above). This letter was available to both Z and the Guardian but not disclosed to the other parties until 17 July 2018. The justification for such delay was that A as a competent child was entitled to have withheld from disclosure personal information.

40. I found this argument lacking in any real weight and indeed neither counsel for Z or the Guardian sought to defend their instructing client's decision making in such regard.

41. It should have been self-evident that in a case of this type in which credibility was in issue that such a document (even if redacted) was disclosable and that any wish to withhold disclosure should have required the permission of the Court. In my judgment this aspect of the case does not require the citation of governing legal principle (although there is much) as the point is so obvious. Z in effect took the role of the prosecuting authority in the proceedings and was obliged to ensure appropriate disclosure of matters which both assisted and detracted from the argument it was advancing. The letter plainly had the tendency to detract from the strength of the allegation.

42. It is now impossible to set up a counter-factual account of how the proceedings would have developed if this had been appropriately disclosed in a more timely fashion. It is

[3] Paragraph 1.22

correct to say that E's report was an important aspect of the case and that this delayed the case until July 2018. Yet, importantly Z does not know how the other parties, or indeed the Court, may have responded to the letter. It is possible the Court would have activated case management decisions which may have resolved the case in a more efficient manner. As importantly it has simply added to the level of distrust felt by the family to Z regarding their independence.

43. The letter should have been disclosed. The failure to do so is a significant error on the part of Z. I consider those acting for the Guardian should have been equally alive to this issue and sought to act independently irrespective of Z's reasoning. There should be no room for doubt in such regard in the future.

The letter from E

44. Prior to the release of her report E urgently corresponded with the Guardian as to her concerns with respect to the children. The parents complain that this information was not immediately shared with them in particularly insofar as D was concerned. The correspondence raised significant concern as to the wellbeing of D and the pressures that he faced and the impact the same was having upon him.

45. The Guardian and Z both explain the failure to disclose this information in the light of a direction relating to the redaction of E's report. They viewed this correspondence as being part of the reporting process and felt it appropriate to await the full report (which was received days later) before reviewing the totality of the evidence for disclosure.

46. Counsel for D appropriately raised the point as to what would have been the implications had for instance D self-harmed in the interim period, at a time when the Guardian and Z were informed as to concerns as to his well-being but having not shared the same with those who hold parental responsibility in his regard.

47. I consider this specific criticism merited. I accept the existence of a permissive clause as to redaction and on balance I understand why questions of disclosure insofar as A was concerned might wait until the substantive report, but I fail to see how this could properly touch on the information pertaining to D.

48. In my judgment B and C were entitled to this information and the same should have been shared with them immediately following receipt of the letter. They were solely charged with safeguarding D and to fail to provide them with the information was in effect to disarm them in carrying out their role as protective custodians. My concerns are only marginally tempered by the interaction with the timetable and the impending receipt of the substantive report.

Conclusions

49. I give permission to Z to withdraw the proceedings. I make an order in the terms as sent to the parties today (in large measure as per the draft received at the last hearing). I am content to receive any typographical corrections and requests for clarification received by 4pm on 17 August 2018. I will endeavour to deal with the same in a timely fashion. The order however is dated as per my formal permission on 7 August 2018.

Annex

52. Those acting for D asked me to consider his position within this judgment. I am instructed that he has sat his A/S examinations this year and has in effect failed these examinations. There is concern as to his future in the light of the same and I am asked to comment as to the impact of these proceedings upon him.

53. There is in my mind no doubt that these proceedings would have substantially impacted upon D. I have received expert evidence from E which states in the clearest terms the continuing impact of these matters upon D. To say the issues have acted as a distraction to him would be to vastly understate their effect. On any reasoned approach it is highly likely that he has been overwhelmed by the matters which he has been required to address and I am sure this will have been to the detriment of other important aspects of his life.

54. In particular I am very confident that his schooling will have been directly impacted. This is a teenage child who has been dealing with the full range of teenage issues whilst at the same time having to face serious unresolved issues. He has not chosen this process but rather has been made subject to it. It is difficult to conceive of circumstances in which his schooling will not have been seriously and negatively impacted.

55. In such circumstances I consider only fair and proper that he should be entitled to rely upon an appropriately redacted piece of information explaining the impact of these proceedings upon him. I trust this annex meets the situation appropriately. I give permission for paragraphs 52 to 55 to be disclosed without redaction of D's full name and date of birth. I will consider any further disclosure sought.

His Honour Judge Willans