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Neutral Citation Number: [2023] EWHC 3042 (Fam)

Case No: No: ZC20P0643

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28 November 2023

Before:

MR DAVID LOCK KC
SITTING AS A DEPUTY HIGH COURT JUDGE

Between:

H

Applicant

- and -

USAMA IKRAM BUTT (1)
E (Acting by his Guardian, Ms Lynn Magson of CAFCASS)
(2)

Respondents

Mani Singh Basi and Alexandra Halliday (instructed by Dawson Cornwell LLP) for the **Applicant**
Emma Fielding (instructed by Charles Strachan Solicitors) for the **Respondent**
Ms Eva Holland (of CAFCASS Legal on behalf of the **Child's Guardian**)

Hearing date: 24 November 2023

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Mr David Lock KC:

1. I have before me an application for committal of Mr Usama Ikram Butt ("**the Father**") for contempt of court for failing to comply with a series of orders requiring him to bring his son, E ("**the Child**") back from the United Arab Emirates to the UK.
2. The applicant is E's mother, Mrs J ("**the Mother**"). I also have an application before me to lift some of the aspects of the confidentiality of the private proceedings which lie behind this contempt application so as to allow the Mother to publicise the fact that her husband is failing to comply with orders of the High Court to bring E back to the United Kingdom. As the publicity application had the potential to affect E, I invited CAFCASS to appoint a Guardian to represent E in this hearing. I am grateful to Ms Magson for CAFCASS for her work on this case and to Ms Holland who has provided a very helpful Position Statement on the question of publicity.

Mr Butt's absence from this hearing.

3. Although the Father has not attended this hearing, despite being required to do so, he is represented by Ms Fielding of counsel. No application has been made by Ms Fielding to adjourn the hearing and she is content that the hearing proceeds today in the Father's absence. Ms Fielding has also taken no procedural points in relation to the committal application.
4. There are a series of essential procedural safeguards applicable to the issue and conduct of a committal application in Rules 37.3 and 37.4 of the Family Procedure Rules ("**FPR**"). It was not suggested that there are any procedural defects in relation to this application. In those circumstances, I was therefore invited to proceed to consider this application on its merits and have done so.

The background.

5. On 23 July 2020 the Father was granted a Child Arrangements Order under which E was required to live with him and was to have the benefit of supervised contact with his Mother. On 12 January 2021, without the Mother's knowledge, the Father took E to live in the UAE. E has substantial autism and other disabilities and was in receipt of specialist medical support in the UK. The Father appears to have travelled to the UAE to take up a job opportunity and has arranged for E to receive specialist support for his autism in the UAE.

6. On 26th January 2021, the Father applied to the family court for leave to relocate E. By that stage he had been in Dubai for several weeks and he said he had decided not to return. In that application form he said he had arrived in the UAE for “essential work reasons”. In summary, the Father’s case that he should have permission to relocate to Dubai with E has been repeatedly rejected by the Court and return orders have repeatedly been made and ignored by the Father. It follows that, prior to today’s committal application, this matter has a long procedural history which is set out in the helpful position statement of the Guardian and is summarised in the judgment of Mrs Justice Arbuthnot of 17 January 2023 as follows (save that I have made changes to anonymise the judgment which was originally given with names included):

“Return Orders

3. There have been a number of return orders in relation to E in the last nearly two years.

4. The first return order was made by HH Judge Harris sitting at Central Family Court on 10th February 2021 when the Father was ordered to return E “as soon as flights resume between the UAE and UK”.

5. On 17th May 2021, HH Judge Harris ordered that the Father return E by midnight on 6th June 2021.

6. On 27th August 2021 the Father told the Court he had an appointment for his second vaccine within two weeks. HH Judge Harris ordered E’s return by 15th September 2021. At the same time, she transferred the proceedings to the High Court.

7. The Father said later he could not return with E because he (the Father) was unable to have a second Covid vaccination as it put him at physical risk. He relied on a report which stated he was in a high-risk category and that to travel “in the next few months” would increase his risk of infection from Covid. He produced evidence that he had been refused Pfizer vaccinations because of his high blood pressure. He also explained that his work meant he was required to stay in the region for the foreseeable future. He said

furthermore that E was receiving therapy for his mild to moderate autism and if he was suddenly removed from this it would have a 'dire' effect on his welfare.

8. On 24th September 2021, with the Father in remote attendance, Francis J ordered E's return by 23.59pm on 28th September 2021.

9. On 1st October 2021, the Father who had had notice of the hearing said he could not attend as he was unable to find a carer for E. The proceedings were adjourned to 11th October 2021.

10. On 11th October 2021 the Father failed to attend the hearing again.

11. On 21st January 2022 the Father failed to attend the hearing again. Amongst a number of orders made by Francis J, the Father was ordered to return E to this jurisdiction "forthwith". The Father said later he had not received notice of that hearing.

12. On 21st February 2022, the Father did not attend again despite having been provided with the papers, the Microsoft Teams link and him having sent a document arguing the orders of 21st January 2022 should be set aside. He was ordered by Francis J to return E "forthwith" to this jurisdiction.

13. On 29th March 2022, in the light of the Father failing to attend a hearing again, Moor J ordered a further hearing on 27th April 2022.

14. On 27th April 2022, the Father attended with a McKenzie friend. The Father's application to set aside the order made on 21st January 2022 was dismissed.

15. On 26th May 2022, the matter was listed for the Court to consider amongst other matters whether E had been removed without consent in January 2021, whether he had been wrongfully retained since then, whether a summary order for his return should be made and whether an expert should be instructed. The Father was ordered to attend the hearing.

16. The Father attended and a one day contested hearing took place. I heard evidence. I found that from 28th January 2021 the Child was being wrongfully retained outside the jurisdiction. The Father wrote and proposed that E return in October 2022. Wardship continued. An order was made that E be returned by no later than 11.59pm on Thursday 2nd June 2022.

17. On 8th June 2022, the matter came back before the High Court. The Father did not attend, again. An order was made that he return E to this jurisdiction by 11.59pm on Thursday 23rd June 2022.

18. On 28th June 2022, the Father did not attend. The matter was further listed on 26th July 2022 when the Father did not attend.

19. A hearing due to take place on 25th October 2022 was adjourned administratively as the expert report was not ready.

20. A hearing was listed for 15th December 2022 but was adjourned because the Father said he had only just received the expert report and had had no time to take advice. After some correspondence, the Father asked for a clear two weeks before a hearing although he would prefer one in late January 2023.

The hearing on 11th January 2023

21. This case came before me remotely on 11th January 2023.

22. On 10th January 2023 the Father sent the Court a doctor's note which said he was wheezing, he had acute sinusitis, acute bronchitis and lower respiratory tract infection. He also provided the results of a blood test. At 10.44am he sent an email to the Court saying he had developed diarrhoea as he was on antibiotics. He said felt very weak, dehydrated and had breathing difficulties and was not in a position to attend and represent himself in those circumstances. He applied to adjourn but said that if that was not granted, he would provide a position statement that he had written in response to the Mother's position statement of 14th December 2022. This was provided to the Court.

23. *The Father was told to join the hearing the following day and make his application to adjourn.*

24. *The proceedings came on at 3.15pm on 11th January 2023 but the Father did not attend.*

25. *In his position statement the Father explained he 'reiterates his intention to return once E's early intervention ABA therapy is concluded'. I noted that the Father provided no dates for the conclusion of this therapy and the return of E."*

7. In addition to the above chronology, this court has made a series of factual findings in this case. In a judgment dated 26 May 2022, Mr Justice Arbuthnot considered the evidence presented by the Father about the reasons that he had not brought E home which were, in summary, a combination of the Father's own health problems and E's autism. She rejected that case concluding at paragraph 21:

"I considered that had the Father really been as vulnerable as he said he was he would not have taken the risk of going to Dubai in the first place. This was the second year of Covid and every person was aware of the risks of travel and public places. Like many people who were abroad when the rules were about to be changed, he had a choice of immediately returning to London where his home was, E was at school and his Mother lived. If he had wanted to return that is what I find he would have done"

8. Mr Justice Arbuthnot concluded:

"34. My overall impression of the Father was that he was not putting the interests of E first, but he had decided that he wanted to work and live in Dubai. He gave no weight at all to the importance to E of having a relationship with his Mother. He wanted to have E in his care there and had decided to stay in Dubai after the first few days when he may still have intended to return.

35. *As time went on, I found he has given flimsy excuse after flimsy excuse for ignoring the orders of the court. I do not accept that his health or E's autism are sufficient reasons to prevent E from returning to this jurisdiction where he must be able to meet*

his Mother again and start up their relationship which has been greatly affected by the Father's attitude. The risks of Covid were present when the Father flew to Dubai and as is clear from Dr Al Mandhari's email the risks of Covid were present in Dubai"

9. These are committal proceedings and the Mother has to prove breaches of the orders to the criminal standard. The Father has filed a further witness statement that I will consider below but has not attended this hearing in person or applied to do so remotely, although he is represented by counsel. There is nothing in the new evidence which suggests that the above conclusions are not entirely correct, regardless as to which standard of proof is applied.
10. In summary therefore, E has remained a ward of court since 24 September 2021 and there have been a series of further orders made at various hearings since September 2021 requiring the Father to return E to the UK. A total of 10 orders have been made in these proceedings requiring the Father to return E to the UK but he has failed to comply with any of these orders.
11. A hearing was held on 11 January 2023 when a further order was made for the Father to return E to the UK and permission was given for the Mother to make a committal application., based on the Father's failures to return E to the UK. That committal application has been issued and has been served electronically on the Father, along with the application by the Mother for permission to publicise the outcome of the contempt of court proceedings. The Father has been represented today by counsel and no issue is taken that he has not been properly served.
12. The Father has served a witness statement in response to the committal application. He says:

"This witness statement reflects the gist of the matter – as the Father understand it – and is built on UK's family & international law, the disability of the Child in question and on Father's sincere input to the reasons why he could not return when ordered, based on the circumstances around him and his disabled Child"
13. In that witness statement, the Father accepts that he has failed to comply with the terms of the court orders. He accepts that, following difficulties caused by the pandemic, flights between UAE and the UK resumed in June 2021. Thus, the flights resumed prior to the first date when the Father was required to return with E, namely 7 July 2021. However, the Father

suggests at paragraph 5 of his witness statement that, following the resumption of flights, he was unable to comply with the terms of the court order because all of the flights were fully booked. The Father was ordered to attend this hearing in person but he has failed to do so. If he had attended this hearing then that assertion could have been tested in cross examination, but he has not done so. I reject that defence as it is simply not credible. There is no detail provided to support that claim and the Father gives no details of any attempts he made to book flights for him and E. I cannot accept that that it would not have been possible for the Father to have secured a flight from UAE to the UK before 7 July. It cannot possibly be the case that every flight from the UAE to Europe was fully booked. It is, in my judgment, yet another of the flimsy excuses that the Father attempts to advance for not complying with court orders.

14. The Father then suggests that the emergence of the Delta variant of the COVID virus meant that there was a further period when he was unable to travel because of risks to his own health. If there was any substance to that excuse, it evaporated a very long time ago. The majority of the rest of the witness statement is an explanation by the Father about the steps that he has taken to secure appropriate specialist support for E in the UAE and his concerns as to whether this support would not be available if he were to return to England. At no point does the Father engage with the fact that, throughout this time, E was being deprived of face to face contact with his Mother and only intermittent video contact. He also does not engage with the fact that his attempts to justify staying in Dubai in order to meet E's needs have been repeatedly rejected by the High Court. These paragraphs are a repeat of the case that he advanced in opposition to the court order being made in the first place. That case has, in my view rightly, been repeatedly rejected by the High Court. The fact that the Father is continuing to attempt to argue but he is justified in breaching court orders because he considers that it is in E's best interest to stay in the UAE is nothing more than an attempt to reargue a case which has been rejected. It provides no proper basis for his refusal to comply with court orders. The fact that a party disagrees with a court order provides no proper basis for refusing to abide by the order.
15. In this case both the Mother and the Father have parental rights. Where parents cannot agree what is in the best interests of their Children the role of the court is to act as a final best interest decision maker. That is what the court has done in this case and it has made clear orders having considered the interests of the parents and, most importantly of all, the paramount interests of the Child. The stance taken by the Father completely disables the

court from being able to act as the best interest adjudicator because the Father appears to consider that it is justifiable to refuse to comply with court orders with which he does not agree.

16. Counsel for the Mother, Mr Basi helpfully reminded me of the observations of Peel J in Peel J outlined the *Bailey v Bailey (Committal) (Rev1)* [2022] EWFC 5 where the Judge said at paragraph 28:

“Contempt of court involves a contumelious that is to say a deliberate, disobedience to the order. The accused must (i) have known of the terms of the order i.e precisely what s/he is required to do and (ii) have acted (or failed to act) in a manner which involved a breach of the order and (iii) have known of the facts which made his/her conduct a breach (see Masri v Consolidated Contractors Ltd [2011] EWHC 1024 (Comm))”

17. There is no dispute in this case that the Father knew of the court orders. There is also no dispute that he has, over a period of two and a half years, acted in breach of the orders. I find that is proved to the criminal standard of proof that he deliberately disobeyed the orders at all times. The evidence shows that he went to Dubai to take up a permanent job and that he has never had any intention to return to the UK. I find proven to the criminal standard that he deliberately breached the orders in that his “flimsy excuses” were not more than attempts to cast around to try to find any possible justification for failing to return to the UK and that none of the reasons had any substance.
18. In those circumstances, I reject the case advanced by Ms Fielding that the Father had good grounds to comply with any of the first 4 orders made in this case. In fairness of Ms Fielding, she accepted that she was not able to make any arguments that the Father was not in clear breach of the fifth to ten orders made in this case and, on behalf of her client, she accepted that the Mother had proved her case that the Father had deliberately acted in breach of the terms of those orders. It is thus plain to me that the committal application is well made and that the Mother has proved her case that the Father has acted in repeated breach of the terms of court orders.

The level of sanction the court should impose for these breaches.

19. In those circumstances I have to consider the seriousness of the breach in deciding the appropriate level of sanction. In accordance with FPR 37, the Contempt of Court Act 1981 and

the Family Court (Contempt of Court) (Powers) Regulations 2014 the maximum level of sanction is a period of imprisonment two years.

20. Following the lead given by Peel J in *Bailey v Bailey*, I also remind myself of the guidance given by Hale LJ (as she then was) in *Hale v Tanner* [2000] EWCA Civ 5570 which set out the principles to apply when sentencing for committal in a family law case. Hale LJ said:

"25. In making those points I would wish to emphasise that I do so only in the context of family cases. Family cases, it has long been recognised, raise different considerations from those elsewhere in the civil law. The two most obvious are the heightened emotional tensions that arise between family members and often the need for those family members to continue to be in contact with one another because they have Children together or the like. Those two factors make the task of the court, in dealing with these issues, quite different from the task when dealing with commercial disputes or other types of case in which sometimes, in fact rarely, sanctions have to be imposed for contempt of court.

*26. Having said that, firstly, these cases have to come before the court on an application to commit. That is the only procedure which is available. Not surprisingly, therefore, the court is directing its mind to whether or not committal to prison is the appropriate order. But it does not follow from that that imprisonment is to be regarded as the automatic consequence of the breach of an order. Clearly it is not. There is, however, no principle that imprisonment is not to be imposed at the first occasion: see *Thorpe v Thorpe* [1998] 2 FLR 127, a decision of this court. Nevertheless, it is a common practice, and usually appropriate in view of the sensitivity of the circumstances of these cases, to take some other course on the first occasion.*

27. Secondly, there is the difficulty, as Mr Brett has pointed out, that the alternatives are limited. The full range of sentencing options is not available for contempt of court. Nevertheless, there is a range of things that the court can consider. It may do nothing, make no order. It may adjourn, and in a case where the alleged contemnor has not attended court, that may be an appropriate course to take, although I would not say so in every case. It depends on the reasons that may be thought to lie behind the non-attendance. There is a power to fine. There is a power of requisition of assets and there

are mental health orders. All of those may, in an appropriate case, need consideration, particularly in a case where the court has not found any actual violence proved.

28. Thirdly, if imprisonment is appropriate, the length of the committal should be decided without reference to whether or not it is to be suspended. A longer period of committal is not justified because its sting is removed by virtue of its suspension.

29. Fourthly, the length of the committal has to depend upon the court's objectives. There are two objectives always in contempt of court proceedings. One is to mark the court's disapproval of the disobedience to its order. The other is to secure compliance with that order in the future. Thus, the seriousness of what has taken place is to be viewed in that light as well as for its own intrinsic gravity.

30. Fifthly, the length of the committal has to bear some reasonable relationship to the maximum of two years which is available.

31. Sixthly, suspension is possible in a much wider range of circumstances than it is in criminal cases. It does not have to be the exceptional case. Indeed, it is usually the first way of attempting to secure compliance with the court's order.

32. Seventhly, the length of the suspension requires separate consideration, although it is often appropriate for it to be linked to continued compliance with the order underlying the committal.

33. Eighthly, of course, the court has to bear in mind the context. This may be aggravating or mitigating. The context is often the break-up of an intimate relationship in which emotions run high and people behave in silly ways. The context of having Children together, if that be the case, cannot be ignored. Sometimes that means that there is an aggravation of what has taken place, because of the greater fear that is engendered from the circumstances. Sometimes it may be mitigating, because there is reason to suppose that once the immediate emotions have calmed down, the molestation and threats will not continue.

34. Ninthly, in many cases, the court will have to bear in mind that there are concurrent proceedings in another court based on either the same facts or some of the same facts, which are before the court on the contempt proceedings. The court cannot ignore those parallel proceedings. It may have to take into account their outcome in considering what the practical effect is upon the contempt proceedings. They do have different purposes and often the overlap is not exact, but nevertheless the court will not want, in effect, the contemner to suffer punishment twice for the same events.

35. Tenthly, it will usually be desirable for the court to explain very briefly why it has made the choices that it has made in the particular case before it. One understands all the constraints in a busy county court, dealing with large numbers of these cases these days, and one would not wish to impose too great a burden on the judiciary in this respect. Nevertheless, it would be appropriate in most cases for the contemnor to know why he or she was being sentenced to a period of imprisonment; why it was the length that it was; if it was suspended, why the suspension was as it was, but only very briefly”

21. I have considered whether, as this is a first committal application, it would be appropriate either to impose no sentence of imprisonment or to suspend the sentence. I do not consider it would be appropriate to take either course for four reasons. First, this is a very serious and continuing breach of court orders. The Father has been in deliberate breach of the terms of court orders for over two years. Secondly, the Father has not just acted in breach of one court order but has breached ten orders made by the High Court. Thirdly, his defiance of the Court is continuing. Even at this stage, his counsel indicates to me that he has no intention of returning E from the UAE. Hence if a lesser penalty was to be imposed it seems inevitable that its only effect would be that the Mother would have to make a further application for contempt and, on that further occasion, the court would be invited to impose a custodial sentence. Fourthly, rather than imposing a suspended sentence, it seems to me that it would be better to allow the Father a short period of time to return to the UK with E before this order takes effect rather than imposing a suspended sentence.
22. In those circumstances it is clear to me that the custody threshold has been met and that the only appropriate sanction is a significant term of imprisonment. Doing the best that I can based upon the available information and having regard to all of the factors set out above, it seems to me that the appropriate length of the sentence should be one of 12 months. That is

a sentence which is sufficiently long to send out a message both to the Father and to others that repeated breaches of orders of the High Court have extremely serious consequences.

Suspension of the operation of this sentence.

23. It is, of course, open to the Father to make an application to the High Court to purge his contempt, although I accept that there are some practical complications arising out of any application that the Father may wish to make. If he returns to the UK with E, he should be arrested at the airport and the question will therefore arise as to what arrangement should be made for E whilst his Father is in prison.
24. I am mindful that E is a Child with needs and that an application by the Mother for an order that E should come to live with her was refused by the High Court on 27 August 2021. Accordingly, if the Father were to arrive at an airport in the UK with E, unless there is an order from the High Court reversing the decision of 27 August 2021, it may well be that E will have to go into the care of the relevant local authority in the first instance rather than going to live with his Mother. Whilst I have no doubt that, if this were to happen, the local authority foster carers would do their best for E, such a course of action would necessarily be the best thing for E and the prospect of such an outcome may be latched onto by the Father as a further reason not to comply with the terms of this order. In saying this I am clear that, if E returns to the UK, a court may well now conclude that, given the history of this matter, it would be in E's best interest to go to live with his Mother. However, that is not a decision I could make today.
25. I also acknowledge that, if the Father travels from the UAE to anywhere else in the world, the immigration authorities in the country in which he is arriving are likely to discover that there is an existing warrant out for his arrest and thus he may be arrested with a view to being deported to the United Kingdom to serve this sentence of imprisonment. That has the potential for E to be left in the UAE without the support of either parent. It is thus manifestly in E's interests for the Father to bring him back to the UK without delay.
26. The terms of his witness statement make it perfectly clear that the Father has no present intention of complying with the terms of the court orders by returning E to the UK. Nonetheless, in order to enable the Father to return to the UK without being instantly arrested, I am prepared to include a provision in the order which provides that the terms of this order shall be not take effect for a period of 28 days. If the Father returns with E to the UK and thereafter remains in the UK with E within the next 28 days, the Father can be confident

that he will not be arrested at the airport, although (a) both his and E's passports will be taken from him to prevent him leaving the country again, (b) he will be required to provide the Tipstaff with details about where he will be living with E on his return to the UK and (c) a hearing should be arranged within 7 days to consider Child arrangements for E. If that happens, the order requiring the Father to serve a term of 12 months in prison shall not take effect. Instead, the question as to what, if any, sanction shall be imposed on the Father for failing to comply with the terms of orders of the High Court will be considered at a hearing at which the Father will be able to appear and invited to purge his contempt.

Publicity.

27. The second matter I am asked to decide is the question as to whether the Mother should be entitled to publicise the fact that the Father has been in breach of the terms of multiple orders of the High Court and has been sentenced to a period of 12 months imprisonment for his breach of those orders. The Mother already has limited permission to release a photograph of E, to name him, to name the Father and to publicise the fact that the Father has failed to comply with return orders. She asks for an extension of that order to include the following:

- a) The Father's full name, surname and his nationalities;
- b) A recent picture of the Father;
- c) E's age and nationalities;
- d) E's picture from his Childhood;
- e) The fact that E was taken out of the UK without the Father's knowledge or the court's knowledge or permission;
- f) The fact that the Father has failed to comply with 10 return orders.

28. This is an order which has been made in open court thus, in principle, the fact that the Father has been sentenced to a period of imprisonment of 12 months is now publicly available information. However, that information will not make any real sense to a reader unless the Mother is able to set out the background to the order of imprisonment. She has asked for this publicity in order to seek to put pressure on the Father and also in the hope that it will enable her to raise funds to be able to seek orders in the courts in the UAE to require the Father to return with E to the UK.

29. The Father, through Ms Fielding, strongly opposes the suggested order on the grounds that this will adversely affect his life in Dubai and may lead to the loss of his job, and that would prejudice his ability to support E. He is also concerned about the wider damage to his reputation and the adverse effect that this will have on his other Children. The Guardian rightly reminds me that the primary aim of the Court is not to punish the Father but to protect E and to secure his return to the UK. She accepts that the threat of publication may place pressure on the Father and thus may lead to him agreeing to return to the UK with E. As a result, the Guardian does not oppose the making of the order.

30. In considering this matter, I have been assisted by the judgement of Mrs Justice Lieven in *Tickle v Herefordshire County Council and others* [2022] EWHC 1017. In that case the Judge said, referring to the balance between the rights under Article 8 and article 10 ECHR:

"Firstly, neither Article takes precedence over the other, but the Court must undertake an "intense focus" on how the competing rights apply in the particular case; Re S at [17].

Secondly, the Child's interests, whilst neither paramount not determinative, are a "major factor" and "very important"; Re Webster at [56]. The Child's interests should be considered first though they can be outweighed by the cumulative effect of other factors; ZH (Tanzania) v Secretary of State for the Home Department [2011] 2 AC 166 at [33].

Thirdly, the Court should not treat it as inevitable that publicity would have an adverse impact on Children. In each case the impact must be assessed by reference to the evidence before the Court rather than to any presumption of harm; Clayton v Clayton [2007] 1 FLR 11 at [51]. Although I note Lady Hale in PJS v News Group [2016] UKSC 26 emphasising that Children have their own privacy rights independent of those of their parents.

Fourthly, the Court should give weight to a party's right to "tell their own story" so as to vindicate their Article 8 rights, see Tickle v Griffiths above"

31. In this case it seems to me that the balance compellingly comes down in favour of publicity for the following reasons:

- a. E is still young and accordingly the direct effect on him of any publicity is likely to be extremely limited;
 - b. The proposed publicity will only affect the Father, the Mother and E. It is not proposed that either the Mother's full name or E's will be publicised but may inevitably be identified by anyone who has knowledge of the family will know their names as a result of naming the Father. However, the publicity order will not inevitably lead to the identification of E to anyone who does not know the family and no third parties will be named; and
 - c. I accept that an order permitting publicity may put pressure on the Father. He has said he fears it will lead to him losing his standing in Dubai and may lead to him losing his job. Those factors do not justify him not being named as someone who has breached court orders but there is a chance that the threat of the adverse effects of publicity made lead the Father to accept that it is in his best interests to comply with the terms of the court orders. Publicity may also assist the Father to gain much needed funding to allow her to litigate in the UAE if the Father continues to defy the court orders.
32. The Father says that he is very concerned that any publicity will have an adverse effect on his reputation and may result in him losing his job in the UAE. However, in my judgment the Father has no right to ask for his public breaches of court orders or the sanction arising out his decision to breach court orders not to be publicised. It is in E's best interests for the Father to comply with the court orders and, to further E's interests, I am prepared to suspend the terms of any order committing publicity for 28 days to allow the Father a final chance to resolve his affairs in Dubai and to comply with the terms of the court order and to return to the UK with E. However, if he fails to take this opportunity, in my judgement the balance comes down firmly in favour of allowing the Mother to publicise the fact that her son has been kept away from her for the last three years by her husband who is defying orders of the High Court in doing so.
33. I would be grateful if counsel can draw an appropriate draft order.