

FAMILY COURT OF AUSTRALIA

RABKIN & EDSALL (NO. 3)

[2018] FamCA 515

FAMILY LAW – CHILDREN – INTERNATIONAL RELOCATION – where the mother seeks to relocate with the child to the United Kingdom – where the father seeks that the child live primarily with him in Australia until the mother completes various treatments – where the parents have been involved in entrenched conflict – where the mother is permitted to relocate the child to live in the United Kingdom.

Family Law Act 1975 (Cth)

AMS v AIF (1999) 199 CLR 160

Banks & Banks (2015) FLC 93-637

Cox & Pedrana (2013) FLC 93-537

APPLICANT: Mr Rabkin
RESPONDENT: Ms Edsall
INDEPENDENT CHILDREN’S LAWYER: Barbara Fox Solicitor
FILE NUMBER: BRC 5702 of 2013
DATE DELIVERED: 13 July 2018
PLACE DELIVERED: Brisbane
PLACE HEARD: Brisbane
JUDGMENT OF: Hogan J
HEARING DATE: 6, 7, 8, 9 & 10 March 2017
19 & 20 April 2018
8, 9 & 31 May 2018
1 June 2018

REPRESENTATION

COUNSEL FOR THE APPLICANT: Mr Anderson of Counsel (6–10 March 2017)
SOLICITORS FOR THE APPLICANT: Simonidis Steel Lawyers (6–10 March 2017)
THE APPLICANT: In person (19 & 20 April 2018; 8, 9 & 31 May 2018; 1 June 2018)
COUNSEL FOR THE RESPONDENT: Ms Oakley of Counsel
SOLICITORS FOR THE RESPONDENT: CNG Law
COUNSEL FOR THE INDEPENDENT CHILDREN’S LAWYER: Mr the child of Counsel
SOLICITOR FOR THE INDEPENDENT CHILDREN’S LAWYER: Barbara Fox Solicitor

ORDERS

IT IS ORDERED THAT

(1) All previous Orders are discharged.

AND IT IS ORDERED BY WAY OF FINAL ORDER THAT

- (2) The child K, born in 2010 (the child), live with the mother.
- (3) The mother have sole parental responsibility in respect of all major long term issues (as that expression is defined in the *Family Law Act 1975* (Cth)), other than the child’s name.
- (4) Other than in emergency circumstances, the mother shall, prior to making a decision about any major long term issue:
- (a) inform the father in writing of the issue about which a decision needs to be made, the decision she would like to make in respect of such issue and the reasons for that proposed decision; and

- (b) allow the father fourteen (14) days after the provision by her of the information referred to above to respond to the same in writing; and
 - (c) consider the father's response, if any, when coming to her decision about any such issue; and
 - (d) inform the father of the final decision she has made with respect to that issue as soon as practicable thereafter.
- (5) The parties shall have equal shared parental responsibility in relation to the issue of the child's name.
- (6) Each parent has responsibility for daily decisions about the day to day care, welfare and development of the child whenever he is in that parent's care.
- (7) The mother is at liberty to relocate the child to live with her in the United Kingdom at any time after 13 August 2018.
- (8) Prior to his relocation to the United Kingdom, the child shall spend time with the father at all times as may be agreed between the parents in writing, but, failing agreement, as follows:
- (a) each alternate weekend from after school Friday until before school Monday, with the father or his nominee (provided it is a person known to the child) to collect the child from school at the commencement of the time and with the father or his nominee (provided it is a person known to the child) return him to school at the conclusion of such time; and
 - (b) the child's time with the father shall be in the presence of the paternal grandmother; and
 - (c) the father is restrained from using any physical discipline toward the child.
- (9) Following his relocation to the United Kingdom, the child shall spend time and communicate with the father at all times as may be agreed between the parties in writing but, failing agreement, as follows:
- (a) commencing in 2019: for a period of 20 nights in Australia during the extended European summer school holiday period (occurring in July/August) on the following terms:
 - (i) in two blocks of 10 consecutive nights with the father, from 9.00 am on the first day until 5.00 pm on the eleventh day, with such time to be interrupted by no more than three consecutive nights in the care of the mother; and
 - (ii) when the child spends overnight time with the father this time shall take place in the company of the paternal grandmother.
 - (iii) the mother shall accompany the child to Australia until such time as the mother advises the father in writing that the child has reached an age, level of maturity and ability when he can travel as an unaccompanied minor or the child reaching the age of 15 years, after which he may travel as an unaccompanied minor if the mother so chooses; and
 - (iv) the child's flight shall be at the mother's expense; and
 - (v) the mother shall email the father with at least 90 days' notice of the dates on which she proposes the child travel to Australia; and
 - (vi) the father will reply to this notice by email within seven (7) days to confirm that he is available to spend time with the child; and
 - (vii) once the father has confirmed his availability to spend time with the child, the mother shall be at liberty to book the child's return air travel; and
 - (viii) the mother shall notify the father of the child's school term and holiday dates for the following year by not later than 31 December in each year.
 - (b) for a period of not more than ten consecutive nights on any occasion that the father is in the United Kingdom: provided that he has first given the mother no less than thirty (30) days' notice in writing of his intention to travel to the United Kingdom and to spend time with the child there, with changeover to occur at a place agreed between the parties in writing or, failing agreement, at a place which is proximate to where the child is living and as nominated by the mother; and
 - (c) by telephone or Facetime:
 - (i) at such times as the child reasonably requests and the mother shall facilitate the contact; and
 - (ii) between 7.30 am and 8.00 am United Kingdom time each Tuesday and Sunday, with the father to facilitate the contact to the child and the mother to make the child available for the contact; and
 - (iii) on the child's birthday and the father's birthday and on Australian Father's Day, with the mother to facilitate the child contacting the father.
 - (d) by email and mail at such times as the child reasonably requests.
- (10) During any time the child is in the father's care, the father is restrained from using physical discipline toward the child.
- (11) The father is at liberty to communicate with the child by email and mail at all reasonable times.
- (12) In order to facilitate the child's transition between his parents' care for the purpose of the time he is to spend with his father in Australia pursuant to this order, changeover shall occur in the following manner unless otherwise specified:
- (a) at McDonald's L Town: each parent may collect the child personally or by their nominee, provided that the nominee is an adult who is known to the child and the other parent; and
 - (b) each parent shall be punctual in attending the changeover and, if there is to be a delay, shall text or phone the other parent; and
 - (c) unless otherwise agreed between the parents in writing: neither parent shall approach the other and each shall remain near their cars.
- (13) The mother and father shall:
- (a) keep the other informed at all times of their residential address, contact telephone numbers (landline and mobile) and email address and advise the other of any change to the same within 48 hours of such change; and
 - (b) keep each other informed of the names, addresses and contact details of any specialist medical professional whom treats the child; and

- (c) inform the other as soon as is reasonably practicable of any accident, emergency, hospitalisation, serious medical condition or significant health issue suffered by the child whilst in that parent's care and also provide details of the treatment the child has received in relation to the same; and
- (d) keep the other informed of the details of any school, educational facility or extra-curricular activity provider attended by the child.
- (14) Within 28 days of receiving the same, the mother shall provide the father with a copy of any school report received about the child's progress at school.
- (15) On no less than one occasion each year, the mother shall provide the father with a copy of any official school photograph in which the child appears.
- (16) The mother shall do all things necessary to ensure that she continues to receive psychological and/or psychiatric treatment for as long as is considered necessary by her treating practitioner to assist her to address the major depressive disorder (which involved a pattern of chronic anxiety and depressive symptoms) with which she has been diagnosed by Dr P and, in furtherance of this, she is at liberty to provide any treating practitioner with a copy of Dr P's report, the Family Reports prepared in this matter and the Reasons for Judgment delivered.
- (17) By this Order, the mother and father authorise any day care, school, educational facility or extra-curricular activity provider attended by the child to provide to each parent, at that parent's request and cost, all information about his educational progress and school related activities.
- (18) Subject to the conditions imposed by the child's school or extra-curricular provider, these Orders authorise both parents to attend school functions and extra-curricular activities to which parents are ordinarily invited including but not limited to carnivals, sports days, fetes, concerts, plays and parent/teacher interviews.
- (19) By this Order, the mother and father authorise any specialist medical professional from whom the child receives treatment to provide to each parent, at that parent's request and cost, all such information lawfully able to be provided about the child's attendance and treatment.
- (20) Neither parent denigrate the other, their partner or their family to, or in front of, or within the hearing of, the child and each shall direct third parties to refrain from denigrating either party, their partner or their family to, or in front of, or within the hearing of, the child and, failing their compliance with such a direction, shall remove the child from that environment immediately.
- (21) Save as may occur in any counselling or therapy consultation in which the child engages, neither party shall discuss these proceedings with the child and each parent shall ensure that the child is not shown any document filed in the Court in the proceedings and shall use their best endeavours to ensure no other person engages in such behaviour and, failing compliance with a direction to cease the behaviour, shall remove the child from the environment immediately.
- (22) The child is permitted to travel outside the Commonwealth of Australia.
- (23) Within 14 days of receiving a written request to do so from the other parent, both parents shall sign all deeds, documents and instruments necessary to obtain an Australian passport for the child.
- (24) In the event that any document necessary to obtain an Australian passport for the child is not signed by the father or is returned to the mother in a state that is incomplete or such that it does not comply with the requirements for a passport to issue, the mother is at liberty to complete replacement travel documents and, if necessary, a Registrar of the Family Court of Australia is appointed, pursuant to s 106A of the *Family Law Act 1975* (Cth), to sign any such document in lieu of the father.
- (25) Upon receiving a copy of this Order, the Australian Federal Police shall remove the name of the child, K, a male, born ... 2010, from the Airport Watchlist at all points of international arrival and departure in Australia.
- (26) All outstanding applications are dismissed.
- (27) The Independent Children's Lawyer is discharged.

AND IT IS FURTHER ORDERED THAT

- (28) Pursuant to s 65DA(2) and s 62B of the *Family Law Act 1975* (Cth), the particulars of the obligations these Orders create and the particulars of the consequences that may follow if a person contravenes these Orders and details of who can assist parties to adjust to and comply with an Order are set out in the Fact Sheet attached and these particulars are included in these Orders.

Note: The form of the order is subject to the entry of the order in the Court's records.

IT IS NOTED that publication of this judgment by this Court under the pseudonym *Rabkin & Edsall (No. 3)* has been approved by the Chief Justice pursuant to s 121(9)(g) of the *Family Law Act 1975* (Cth).

Note: This copy of the Court's Reasons for Judgment may be subject to review to remedy minor typographical or grammatical errors (r 17.02A(b) of the Family Law Rules 2004 (Cth)), or to record a variation to the order pursuant to r 17.02 Family Law Rules 2004 (Cth).

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FAMILY COURT OF AUSTRALIA AT BRISBANE

FILE NUMBER: BRC 5702 of 2013

Mr Rabkin
Applicant

And

Ms Edsall
Respondent

And

Independent Children's Lawyer

REASONS FOR JUDGMENT

1. Mr Rabkin, a tradesman, and Ms Edsall, a health professional commenced cohabitation in about March[1]/July[2] 2008. They have one child together: K, who was born in 2010. They separated in June 2013, at which time the father and the child moved to live with the paternal grandmother. The parties previously resided together at a residence at Suburb E, where the mother currently lives.
2. Final parenting orders made on 18 December 2015 (amended 21 December 2015) by Judge Howard provided that the child live primarily with his mother and spend time with his father from after school Thursday until the commencement of school each Tuesday each alternate weekend (that is, for five nights per fortnight), for half of each school holiday period and for specified time on specified 'special' occasions such as Father's Day, Christmas Day and his birthday.
3. Both parents appealed this order. On 2 August 2016, the Full Court allowed both the appeal and the cross-appeal and remitted the matter for re-hearing. The Full Court also made interim parenting orders in the same terms as the December 2015 order. On 1 September 2016, Judge Baumann (as his Honour then was) transferred the proceedings[3] to this Court. As I understand it, he did so after the mother told him she intended to seek orders which would permit her to relocate the child to live with her in the United Kingdom.

The competing proposals

The father

4. As at June 2018, the father seeks[4] that:
 - a) the child live with him for 12 nights each fortnight and spend time with his mother for two nights each fortnight (if the Court is satisfied there has been "parental alienation" by the mother); and
 - b) the child live with each parent each alternate week after the mother completes treatment, consistent with Dr P's recommendations, to the Court's satisfaction; and
 - c) he have sole parental responsibility for medical decisions relating to the child if there is an equal time parenting regime; and
 - d) one medical practitioner be responsible for addressing the child's medical needs; and
 - e) the child attend upon Ms U, a psychologist recommended by the Independent Children's Lawyer; and
 - f) the child's holiday time parenting regime coincide with those parenting orders his partner (Ms V) has in respect of her two children (X and Y) such that the child and those children spend holiday time together.
5. The father's previous proposition[5] was that he and the mother have equal shared parental responsibility for the child's long term care, welfare and development (save for in relation to decisions concerning the child's health and education, in respect of which he should have sole parental responsibility); that the child live with him and spend time with the mother each alternate weekend (from after school Friday until 4.00 pm Sunday), for one half of the school holidays and on 'special' days and be at liberty to communicate by telephone with her at any time. He previously sought that the mother be restrained from removing the child from Australia during the child's minority and that his name be placed on the Family Law Watchlist in support of such an order.
6. The father did not specify this in the "orders sought" within his April 2018 affidavit nor did he specifically seek such orders in his recent written submissions, dated 19 June 2018.

The mother

7. The mother seeks that she have sole parental responsibility for decisions about the child's major long term issues. Her primary position[6] is that she be able to relocate the child's residence to the United Kingdom. Should this proposal find favour, the mother advances that, from 2019, the child spend time with his father for a period of 20 nights during the extended European summer school holiday period (which occurs in July/August) on the following terms:
 - a) for periods of 10 consecutive nights with his father; and
 - b) such overnight time with the father shall take place at the home of the paternal grandmother; and
 - c) she shall accompany the child to Australia until such time as he can travel as an unaccompanied minor; and
 - d) she shall pay for the flights.
8. The mother also proposes that the child be at liberty to communicate with the father by telephone or Facetime at such times he requests and, in addition, she shall facilitate communication between them between each Tuesday and Sunday 7.30 am and 8.00 am United Kingdom time, on the child's birthday and on (Australian) Father's Day.
9. In the event that her primary proposal is unsuccessful, the mother advances that the child's best interests will be served by parenting orders which will see him live primarily with her and spend time with the father every second weekend (from after school Friday until before school Monday), for one half of the gazetted school holidays and on special days. Consistent with her proposal for conditions attendant on the child's holiday time with the father if the child is living in the United Kingdom, the mother proposes that any overnight time the child spends with his father occur at the home of the paternal grandmother. The mother also proposes that the child be permitted to communicate with his parents by telephone at such times he reasonably requests and that the parent with whom the child is not then spending time be permitted to telephone him each Monday and Friday between 7.00 pm and 7.30 pm.

The Independent Children's Lawyer

10. At the commencement of the trial in March 2017, the Independent Children's Lawyer proposed[7] that the child live with his father and that the parties have shared parental responsibility for the child's long term welfare, care and development, save for issues concerning the child's education

and medical decisions. It was proposed that the father have sole parental responsibility for such issues.

11. The Independent Children's Lawyer also proposed that the child spend time with his mother each alternate weekend (from 4.00 pm Friday to 4.00 pm Sunday), for one half of each school holiday period and on 'special' days. The Independent Children's Lawyer proposed that the child have reasonable telephone contact with the parent with whom he was not living.
12. As at May 2018, the Independent Children's Lawyer continued to be opposed to the mother's proposal that she be permitted to relocate the child to live with her in the United Kingdom. Counsel for the Independent Children's Lawyer then submitted that, if the child remained living in Australia, in the primary care of the mother, he should spend substantial and significant time with the father. Counsel submitted that, if a "7/7" arrangement was not considered best for the child, the Court could consider him spending something more than alternate weekends and half holidays in the care of his father: that is, the Independent Children's Lawyer urged the Court to order that the child spend more than each alternate weekend and half of the school holidays with the father.
13. It was also submitted on behalf of the Independent Children's Lawyer that the Court might consider that there ought be an order for equal shared parental responsibility, together with a requirement for the parties to attend appropriate parenting programs to assist them to learn to reach agreement about major long term issues or at least be able to discuss what needs to be done. Further, it was submitted that the child attend only one specialist therapeutically.

General conclusions about credit

14. I have concluded that the father is not a truthful witness; his evidence cannot be accepted without significant scrutiny. He has demonstrated a willingness to say whatever he thinks will assist his case; on occasions, he has simply deliberately lied to the Court. More recently, he deliberately refrained from telling both the mother and the Court about matters that were obviously relevant to any assessment of the child's mental health functioning. Any apology proffered when caught out in a lie was perfunctory and insincere.
15. These conclusions have been arrived at having regard to the following examples of the father's dishonesty:
 - a) despite police attending his home on 21 January 2018 after Ms V called them to report she was being assaulted and despite the child telling him on 23 February 2018 that X had tried to "kiss him naked" when both boys were naked, he told Ms R (the Family Consultant who conducted the Child Inclusive Conference on 20 March 2018) that "there have been no issues with the child's [the child's] visits with him until the mother started raising these concerns in February 2018";^[8] and
 - b) despite swearing an affidavit on 7 April 2015 in which he said, in relation to a telephone conversation with the mother on 26 June 2013 (two days after separation), that he did not recall saying during that conversation that "You are not spending any time with the child unless you sign a piece of paper stating that I am the child's primary care giver" (or words to that effect)^[9], the father accepted during his cross-examination on 7 March 2017 that he *had* said this to the mother and also said that he had a clear recollection of saying those precise words – in addition, when challenged further about the contents of this paragraph of his 2015 affidavit (which he relied on at the trial before Judge Howard), the father said he had "made an error"; he accepted that what he said at the relevant paragraph of his 2015 affidavit was a lie, but then sought to assert that it was "not necessarily" a lie which he knew to be a lie when he swore the affidavit; the father then said (when challenged further) that he did not truly recall the conversation and had only accepted it because Counsel for the mother had put it to him (an explanation I do not accept); and
 - c) despite swearing an affidavit on 7 April 2015 in which he said, in response to the mother's allegation that, on 28 December 2012, he grabbed her by the throat, put her against the wall and attempted to strangle her, that "the incident [Ms Edsall] describes that allegedly occurred on 28 December 2012 did not happen. I have never strangled [Ms Edsall] or harmed her physically in any way"^[10], the father said, during his cross-examination on 7 March 2017 that "I believe when I pushed past [Ms Edsall] my elbow touched her neck, as I was trying to get to my son in the bath. That's what I believe happened..." and also: "there was a big struggle" – this evidence was given after the father had the opportunity to read the evidence given by Ms W (the mother's sister) who said that she saw red marks on the mother's neck that evening on her return to the house, a contention that the father did not challenge; and
 - d) despite swearing an affidavit on 16 February 2018 in which, in response to the contents of correspondence from the mother dated 14 February 2018^[11] in which she asserted that "he [the child] came back from the recent Xmas holidays with the father and told me he had been hit in the head by him", he (the father) said that "I do not know what the mother is talking about in paragraph 2"^[12], he accepted during his cross-examination on 19 April 2018 that, on 16 February 2018, he did know the episode to which she was referring in her letter at paragraph 2 and that he did know what she was talking about (albeit that he had a different version of the incident) and that he did know the precise episode to which she was referring; and
 - e) despite swearing an affidavit on 16 February 2018 in which he said "...I say to the court that she is terrorising the child and alienating him in order to accomplish her goal and is simply turning the child into a nervous and anxious child because it suits her long-term property agenda", the father denied during his cross-examination on 19 April 2018 that it was his firm opinion that the mother had deliberately set out to harm the child and his mental health for the purpose of advancing her case regarding the division of property and was "uncertain" about why he had given the evidence in his February 2018 affidavit that he had; and
 - f) despite first saying that he wrote a certain text message to Mr Z in which he pretended to be Ms V, the father later said that she wrote it and that, as he was lying right next to her when she did, he may well have "dictated it"; and
 - g) despite sending Mr Z a text^[13] in which he said (in referring to Mr Z's parenting of his sons, X and Y, when they were in his care) "You like to sleep with them don't you so are you attacking the child because. you are trying to hide something like you sleep with your boys so the can play with you at night", the father initially denied during his cross-examination that what he intended to convey in that message was that Mr Z has a sexual interest in his children; he also denied that the only way in which the message could have been read was as him accusing Mr Z of having a sexual interest in his sons and said that what he thought he was doing was "letting off steam" – however, when asked to explain what he had intended to convey in his text (if it was not as had been suggested to him by Counsel), the father said "I will go with your one" (that is, he accepted the intention Counsel had suggested he had when he sent the text); he then accepted that what had been suggested as his intended message to Mr Z was what had, in fact, been his intended message; he also denied that he was untruthful in initially rejecting that which he ultimately accepted; and
 - h) despite failing to include any reference at all in any of his affidavits to the events of 21 January 2018 and 23 February 2018, the father said during cross-examination that he had not sought to hide anything from the Court; and
 - i) despite swearing an affidavit on 6 April 2018 in which he said "I asked the child if he had hurt himself when he broke the window his mother had sent me a text about"^[14], the father said during his cross-examination that he "probably asked my mum and she asked the child, she was having the conversation with the child".
16. A further aspect of the father's evidence is particularly troubling and erosive of any remaining confidence in his veracity.
17. When cross-examined about the "boat incident" (discussed later in these Reasons) on 19 April 2018 the father said that a mistake in judgement led him to fail to include his version of what happened that day in an affidavit as soon as possible. In defending his decision not to include any reference to the police attending his home on 21 January 2018 in response to Ms V's call and report that she was being assaulted, he said (on 19 April) that he had not included any reference to this event in his affidavit material because he deemed it irrelevant to the Court's consideration of those parenting

orders which are in the child's best interests. He said that he and Ms V had independently decided not to include any reference to this event in their respective affidavits and that they had not had any discussion about the fact that neither would mention it.

18. When the father was cross-examined on 19 April 2018 about the absence of any reference in his affidavit material to the occasion on 23 February 2018, when the child told him and Ms V that X had tried to kiss him when they were both naked, he said he had omitted giving evidence about this occurrence because "X is just a little boy"; he denied refraining from telling the Court about the event because he wanted to conceal it from the Court and he said that "nothing happened that involved the child so there was no reason to tell" the mother.
19. However, during the course of cross-examination by Ms Oakley (Counsel for the mother) on 20 April 2018 about his telephone call to the mother on 24 February 2018 (to arrange for them to meet at McDonald's), she suggested he had called the mother because he was in "damage control" and wanted to make sure that she did not find out what had been going on in his home, both with Ms V and the child (which was clearly a reference to the police attendance on 21 January and the child's report on 23 February – the day before his call): he denied that contention and asserted that he did not really care if the mother knew about that.
20. It was when Ms Oakley suggested that, if that had really been the case, then he would have included an account of these events in his affidavit, would have told the mother about them and would have told the hospital about them when the child was being sedated, that the father said that 'it' was kept from the affidavits to protect X. This can only be a reference to the occurrence of the child's complaint to the father and Ms V on 23 February 2018 that X had tried to kiss him when they were both naked. The father then agreed with Ms Oakley's suggestion that it was his evidence that he "took a deliberate decision to withhold that information" from the affidavits he had filed in the proceedings. He also agreed that he took that decision in consultation with Ms V.
21. Given this evidence, Ms Oakley then suggested to the father that he had lied to the Court when, during his cross-examination on 19 April 2018, he denied that he and Ms V had reached an agreement to exclude "this part" of his evidence from his affidavit material; the discussion which followed resulted in the father agreeing that he had lied the day before and, after initially prevaricating about whether it was a 'deliberate' lie, conceding that it must be ruled as one.
22. However, having carefully considered this aspect of the evidence, I am not persuaded that I can safely accept the father's 20 April 2018 concession that he lied to the Court on 19 April 2018. Review of the transcript has persuaded me that Ms Oakley's cross-examination on 19 April 2018 resulted only in having the father give evidence that he and Ms V had not discussed omitting any reference to the police attending at their home on 21 January 2018 from their respective affidavits: it did not encompass the occasion of the child's report about X on 23 February 2018.
23. That is not the end of the matter, though, because the father's evidence that he decided to omit any reference to the child's report on 23 February 2018 (an event which both Ms V and the father said happened) in consultation with Ms V is directly contradicted by Ms V's evidence that she and the father had not had any discussions in relation to withholding any truthful evidence from the Court and her evidence that she and the father had not had any discussion about withholding certain evidence from the Court and her evidence that they had not reached an agreement to withhold the evidence about this incident from the Court.
24. Despite my conclusion about the father's general absence of veracity, the inherent unlikelihood that both he and Ms V would fail to make any mention in their affidavits, or to anyone involved in the child's admission to hospital in an extremely distressed state on 27 February 2018, in the absence of discussion and agreement about how to approach the issue of his complaint to them about X's behaviour toward him, persuades me to accept the father's evidence that he determined to refrain from mentioning this event in his affidavit and that he made that decision in consultation with Ms V. Given this acceptance, I am persuaded that Ms V lied when she asserted that there had been no discussion between her and the father in relation to withholding truthful evidence from the Court and also lied when she denied that they had had any discussion about withholding certain evidence from the Court. It follows that I have concluded that Ms V is also a witness whose evidence requires very careful scrutiny before any decision to accept it could be made.
25. Having undertaken that careful scrutiny of her evidence about whether she was the person who sent Mr Z a text message on 28 November 2017, I have concluded that I accept her evidence that she did not use the father's phone to send a text to Mr Z in terms which conveyed that she was the author of the same, was sending it using the father's phone and in which the topic included the suggestion that, in taking Billabong shorts home with him, X was engaging in theft.
26. Given that the father's evidence about this issue was to the effect that Ms V sent the text (which, during cross-examination, became that she did so with him lying beside her, dictating its contents), my acceptance of Ms V's account of this event provides a further example of the father's absence of veracity.
27. In addition to being deliberately dishonest on occasions and in addition to exhibiting the attitude to which reference is made later, the father was, on occasion, deliberately evasive during his cross-examination: for example, when asked whether he had moved out of the home he shared with Ms V temporarily and into his mother's home, taking some of his furniture with him, the father initially said "no"; however, when asked whether any part of the proposition was accurate, he said "the furniture", before going on to say that it was accurate to assert he moved a double bed to his mother's home.^[15]
28. I am not remotely persuaded that the father's dishonesty and evasiveness occurred because he is "only a [tradesman]" – a refrain he made on multiple occasions.
29. Given the conclusion I have reached about Ms V's evidence (as outlined in paragraph 24), it is probably unnecessary to remark further about my assessment of her veracity. However, in case it is thought that my conclusions about the difficulty accepting her evidence without careful scrutiny are limited to those previously mentioned events, I consider it important to note that I have also relied on my assessment of her evidence about the police attendance on 21 January 2018 (as discussed later in these Reasons) and the following further instance in arriving at the conclusion about her evidence that I have:
 - a) when it was suggested to her during her cross-examination that she had asked the deputy principal of the child's school on 16 February 2018 to contact the mother, she initially said that she did not ask her to do that and that the deputy did that "on her own volition"; however, when she was then taken to the contents of a note produced by the school (which included that "[Ms V] was hoping the school could ring mum to determine why the child was not attending school and advise dad"), she said that she believed she must have said that.
30. I have concluded that it is also necessary to approach the mother's evidence with a certain degree of circumspection and, on occasion, scepticism. Such conclusion has been reached on the basis of the following aspects of the mother's evidence:
 - a) despite her evidence being that, at an appointment with a Dr AA at BB Medical Centre at L Town on 13 October 2013, the doctor had advised her that "... the child was suffering from anal tearing and tissue damage around the anus. She advised me that she could not rule out the possibility that the child had been sexually assaulted, and recommended I take the child to the hospital for further examination"^[16], Counsel's cross-examination proceeded on the basis that the notes for that consultation included that the child attended with his mother, had a sore anus which the mother said was red; 'mum is suspicious of abuse'; and – under the heading 'examination' – "No bruise on body. Nil behaviour. Anus nil. No redness. No fissure.": however, given that the notes are not in evidence before me, I cannot reach any conclusion about the mother or any asserted lack of veracity by her on this occasion; and

- b) despite accepting that she had thrown a flask at the father on one occasion and that this hit him in the face, the mother told Mr O during her first interview by him that “she could never behave abusively toward Mr Rabkin because if she had done so, he would have lost the plot”[17] – when cross-examined about this (albeit it in the context of the inaccurate suggestion that she had told Mr O that she had never been “physically violent”), she said that, at the time she made that comment, she did not know that throwing a flask would be deemed to be ‘domestic violence’; and
 - c) despite Mr O recording[18] that she told him on 24 October 2011 that, when she had attended the father’s residence to collect the child for the most recent visit, she saw that the child was “locked in the shed”, the mother said during her cross-examination that, whilst she could not recall whether she had said that to Mr O, she had heard the child scream in the shed and had “presumed” he was locked in there; and
 - d) despite saying during her cross-examination that, when she took the child to the CC Hospital Emergency Department on 13 October 2013 at 6.40 pm she was not asserting that the father had caused the child injury, the notes of that attendance included: “3 year old child brought in by mum with concerns over child abuse by ex-partner” and “Mum has noticed tearing to anus. Saw GP and not sure if ? possible abuse or fissure. Mum has 50% custody of child with father – Mum concerned that father of father’s friend have ? sexual abused him...”;[19] and
 - e) she accepted that, in taking the child to see Ms BC (a therapist) from December 2016 (for three sessions), she acted in contravention of the order made by Judge Baumann on 1 September 2016 whereby the parents were restrained from taking him for any further assessments or treatments with any medical practitioner or allied health professional unless it was a medical emergency, agreed between the parents in writing, directed by the Independent Children’s Lawyer or ordered by the Court;[20] and
 - f) despite telling Judge Howard at the trial in May 2015 that she would make sure that the dogs were removed from her premises, she accepted that they were never in fact removed from her property; and
 - g) despite saying that the child was at school on 13 February 2018, the records of the school showed that the child was absent all day and “parents notified” – she said there was a mistake because the child was at school that day and that there must be an error; and
 - h) whilst it was suggested during cross-examination by the Independent Children’s Lawyer that the notes of police/ambulance attendance at the father’s home on 23 February 2018 including that “Mother states patient has Facetimed her stating father has been hitting him and is now suicidal”, and that “There had been a call from the patient’s mother who cannot go onto scene due to protective order against patient’s father. Unsure if anything has changed with patient condition. Mother also states that father abuses child and shouldn’t be with father”, the mother said that, whilst she remembered telling the police that the child was suicidal, she did not remember saying that the father was hitting him; whilst she denied saying that “the father abuses the child and shouldn’t be with the father”, she explained that she had said that the child had made allegations of having been hit by his father: given that the notes are not in evidence before me, I cannot reach any conclusion about the mother or any asserted lack of veracity by her on this occasion.
31. Whilst such matters have caused me to assess the mother’s evidence with particular focus, I am still persuaded that, where the evidence of the father, the paternal grandmother and Ms V contradict that given by the mother, I generally prefer the evidence given by the mother unless otherwise stated. I have arrived at this conclusion in relation to the paternal grandmother because I consider it more likely than not that her recounting of events is so heavily influenced by her overwhelming disregard for the mother as a parent and a person that it is often unreliable.
32. To the extent that it is necessary to outline any particular conclusions about the evidence given by other witnesses in the proceedings, I will do so during my consideration of the same.

Some brief initial conclusions

33. It is uncontroversial that earlier this year the mother took the child to hospital because he was hysterical and threatening to harm himself; both parents attended; he required sedation. On the mother’s case – at least inferentially – his presentation followed, or is the consequence of, his ongoing exposure to violence (both directly and indirectly) whilst in his father’s care; on the father’s case it is the consequence of exposure to the mother’s hyper-vigilant parenting, consequent upon the depression and anxiety about which Dr P gave evidence last year.
34. Reference to some of the contents of the Progress Notes[21] for the child’s admission on 27 February 2018 provides an understanding of the extreme nature of his presentation that day: for example, he was described as an “acutely distressed child refusing to see his father and emotionally very unstable”; “oral chemical sedation had minimal effect” but “allied health input” significantly de-escalated his behaviour and agitation. He was seen to be crying and extremely distressed; he was unable to sit still on the bed whilst the mother attempted to console him by hugging and rubbing his back; he was difficult to understand due to his level of distress; he was screaming and did not engage with the social worker, though he continued to engage with his mother, who was noted to be visibly upset at his level of distress.
35. The Progress Notes[22] also record that the child continued to say to the mother: “promise I don’t ever have to go back, I can’t ever go back to Dad’s.” He said he would kill himself if he had to return to “Dad’s”; he told his mother: “I am going to have to see him and kill myself”; he continued to scream: “I can’t go back to Dad’s ever”; he asked: “why does Dad want to destroy me”.
36. According to the Notes, the mother attempted to console the child: she told him that his father loved him but he continued to yell: “no he doesn’t”. The hospital social worker, who was present with the mother and the child, reported that there were no concerns about their interaction. After a while, the social worker also notified others that the child’s behaviour had escalated and he was later taken to a de-escalation room; his behaviour was such that the mother was escorted by security guards, nurses, doctors, a psychologist and a social worker when she carried him to this room.[23]
37. In the mother’s case, it was submitted[24] that what was most remarkable about the events which preceded the child’s attendance at the hospital was the father’s failure to tell her or the hospital at the time (and, later, the Court) about what had been happening in his home in January and February 2018 (about which more will be said later).
38. From the father’s perspective – at least as recounted to hospital staff – the mother was a ‘high risk’; he expressed his concern that she was “programming” the child.[25] Reference to the Notes establishes that, for example, the father said he had not heard the child voice suicidal ideation before, until he went into his mother’s care; he said he did not want the child to be discharged into the mother’s care. It was noted that he was “focusing” on the idea that the mother had been brainwashing the child; it was recorded that he had emailed “multiple psychiatric and court documentation” to a member of hospital staff for review; he also asked the hospital not to allow the mother in to see the child.[26]
39. The hospital notes also record that, despite the situation being explained to the father in detail, he continued to insist that “the child is just a child” – he said he “knows how to deal with him”. Further, according to the contents of the hospital notes, the father used “threatening statements and legal proceedings to health professionals for not allowing him to take the child home”. [27]
40. Whilst the February 2018 hospitalisation is, of itself, very significant in my view, it is likely a further manifestation of the impact on the child’s functioning of the pressures associated with transitioning between the care of his parents. In order to understand properly the accumulation of pressures under which the child has lived as a consequence of being the child of these parents, it is instructive to have regard to the history of acrimonious interactions between them: after all, these have formed the backdrop to his life to date. Such acrimony is not limited to events which occurred after the parental separation; it had its genesis in interactions which predated the same.

Events preceding separation

Late January 2012: the mother allegedly pushes the father

41. Ms S (the father's sister) said she witnessed an incident of violence that occurred in front of the child (then about sixteen months of age) in late January 2012.^[28] She said that, when she went to the parties' house to collect the paternal grandmother and the mother's assistant (Ms DD), she saw the mother screaming at the father and saying things such as: "fat pig"; "I hate you"; "you're useless"; "it's all my money"; "you'll get nothing".
42. Ms S described the child as very upset and was shaking; she said he went "pale", so she took him away from the house. She said that, whilst she played with him to distract him, she also kept watching the parties: she said the mother stood very close to the father and screamed at him (right up in his face); she said her brother stood there, with his arms down by his sides and did not move. Ms S said the mother then started to push the child's father: she put both her hands on his chest and screamed at him; she described that her brother kept stepping backward, but the mother continued to follow him and stepped forward, closer to him.
43. Ms S said that, when she was walking with the child back towards the house, the child broke away from her and ran to his father. She said that, as she approached the parents, she saw the mother pointing into the father's face, wave her arms about at him and push him: she put both her hands on the top part of his arms. Ms S said that her brother continued to stand there doing nothing. She said the mother screamed that the parties would get a divorce, the father would get nothing, she knew how it worked, she controlled all the money and would get the best solicitor and he would lose everything.
44. Ms S said that after the father picked the child up and followed her into the kitchen, the mother ran up behind him and pushed him hard in the back – he still had the child in his arms. She said her brother stumbled forward but managed to right himself; she said that when her brother told the mother to stop pushing because she could hurt the child, the mother said: "I'll take the child off you too" and started to try to pull the child away from his father. She described that her brother told the mother she could not look after the child; the mother replied: "no but I'll pay someone to do it... you won't see him again". Ms S said that 16 month old the child started to scream "no". When the paternal grandmother came out of the lounge area and into the kitchen area and told the parties to stop, the mother stopped trying to take the child from his father but continued to yell: "you see what I have to put up with. It's over I'm divorcing you".
45. Ms S said she spoke to her mother (the paternal grandmother) about calling the police but she said that the father would not appreciate them doing that so she did not call them. She also said that when the parents attended at the paternal grandmother's home the next day to visit, it was as if nothing had ever happened.
46. The mother said the only incident that she could recall when the paternal grandmother and Ms DD were at the house cleaning and she and the father argued occurred in July 2011 (when the child was approximately 10 months old) and not late January 2012.^[29] She said that the father had entered the home business where she was with clients and had sworn at her in front of them; she told him to leave and that she would talk to him outside. She said that when they were outside she told him that his behaviour in front of her clients was rude; she raised her voice to him; she recalled feeling upset and said she could have been crying. She said she told the father that his behaviour in front of her clients could affect them attending her business; he said he did not care and did not care if they never returned; she told him it was important that he was "professional" around clients but he walked off and repeatedly said he did not care.
47. The mother said she walked into the kitchen and asked the paternal grandmother to talk to the father about not swearing at her in front of clients. She said the paternal grandmother's response was: "what's the point if you can't talk to [Mr Rabkin], I can't either". The mother said she was very upset at this response. The mother also said the child was not near the father when she spoke to him: she did not recall seeing her son during the conversation, but did recall seeing Ms S and her daughters arrive during it.
48. The mother was adamant that she had not called the father names; she said she did not swear at him; did not say it was all her money and that he would get nothing; did not tell him to do as she said "or else" and did not stand close to him to scream in to his face. She accepted she raised her voice, but said this was because the father kept walking away from her and ignoring her about the concerns she raised about his behaviour. The mother said she did not push the father; did not point into his face or wave her arms about and did not talk to him about divorcing, leaving him, separating or getting a solicitor.

18 May 2012: the bookcase incident

49. The mother said the father told her to unpack a bookcase so it could be moved. She said he said he had told her to do this previously.^[30] She said that when she told him she might unpack the bookcase that night or might leave it until the following morning, he told her it had to be done and to "just do it and fuck off".^[31] She said she then changed the television channel to get his attention; he said: "I'm going to bash your head in", "fuck off you bitch" and showed her his middle finger. She said he continued to tell her to unpack the bookcase but she left the room with the child and switched the television off on her way past.
50. The father accepted that the parties argued that evening. However, he denied screaming at the mother or telling her that he was going to "bash" her head in. He also denied that he told her to "fuck off you bitch" and he denied showing her his middle finger.^[32]
51. Ms S said that the father followed her down the hallway; when he reached her, he pushed her hard against the wall. She said the child was watching. She also said that the father then ran to the bedroom, where she saw him pick up the television. She said he looked ready to throw it so she pushed him away from it; he fell, then got up and picked up a heater and threw it against another heater, breaking it.^[33]
52. The mother, who still had the child in her arms, said that the father then started to swear at her; he approached her and punched her in the face with his closed fist.^[34] However, this account differs somewhat from that contained in the Solicitors Office Report Details, which is that the father "backhanded" her to the face while she was holding the child.^[35]
53. The Report also notes that the mother did not have any physical marks or injuries to her face. It is said that no property other than a heater (which sustained minor damage to the plastic base) was damaged.
54. The mother said she then told the father to leave or she would call the police. However, he unplugged the lead to the home telephone from the wall and took her mobile phone from her hands. She said she then left the house and ran to the car with the child in her arms. She said a struggle ensued: as she was trying to get into the car, the father got the car key from her, squeezed her hard and put his elbow on her shoulder such that she fell to the ground and let go of the child. She said that, as she reached out to grab the father's shirt to stop him from taking the child, she ripped his shirt.^[36]
55. The mother said the father then ran to the house with the child. He locked the door. She said she banged on the glass door with an umbrella handle and a piece of wood. She ultimately entered the house through a side door which the father had opened. She called the police.
56. By this time, the father had left the house with the child. She saw him get in his car with the child; he had him on his lap and started to drive off; she jumped into the back seat of the car and asked the father to stop the car. She said he continued to accelerate and told her she had caused too much trouble by calling the police.
57. When the police arrived they took statements from both parents. The Solicitors Office Report Details records that the father had a ripped shirt and some scratch marks on his back. The father said the mother did this to him when he was attempting to leave with the child. It also contains the assertion that the mother admitted doing this to the father.^[37] During her cross-examination, the mother admitted that she scratched the father's back on the evening of the bookcase incident – when he pulled the child away from her; she also admitted that she had ripped his shirt.^[38]

58. The paternal grandmother said that, when she went to the house after this event, the mother told her that the father had pushed her and threw a heater at her; she said the mother agreed with her (the paternal grandmother's) statement that "he (the father) pushed you, not punched you"[39] and said that he pushed her and threw a heater at her. She said she saw that the back glass sliding door (between the "kitchen family room" and outside) had been broken.
59. The father said that, when he returned home the next morning, the mother told him that she wanted a new door anyway and that the next time she called the police: "I'll make sure there are marks".[40]

28 December 2012: the father allegedly strangles the mother

60. On 28 December 2012, the parents disagreed about whom was to bathe the child. The mother said that, when she told the father that she could not do this because of pain in her back and asked him to bathe the child, the father said: "no you lazy bitch", approached her and put his hands around her throat. She said he strangled her, whilst pushing her against the wall for almost one minute. She said the child was still in her arms at this time and started screaming.[41]
61. The mother said that when the father let her throat go she coughed and spluttered for air; her throat was sore and felt bruised. The mother said that, after the father let her go, she pretended to call the police; she did this because she did not know what else to do and despite him having previously told her that she would be "in big trouble" if she ever called the police again.[42] She also said that the father later told her that: "it would have been all over if you had called them (the police)".[43]
62. Ms W (the mother's sister) was visiting from the United Kingdom at the time of this event although she was not present at the house. She was not required for cross-examination about this issue. She said that, when she returned to the house that evening (on the mother's evidence, about 40 minutes after the father attacked her), the mother told her that the father had strangled her and she thought he was going to kill her.[44] She remembered her sister saying words to the effect of: "I thought [Mr Rabkin] was going to kill me and maybe even the child". She said that the mother was visibly shaken up; she noticed that her voice was lower than normal and she saw that the mother's neck looked red and sore.[45]
63. I note that, during his cross-examination, the father accepted that Ms W reported what she had seen. He did not suggest that she was lying (at least about her report of what she had seen that evening). I accept Ms W' evidence about this incident without hesitation.
64. During his cross-examination, the father said that, when he attempted to get the child from the bath, the mother blocked his passage; he said there was "a big struggle" during which his arm contacted the mother across her neck. He said that he believed that, when he pushed past the mother, his elbow "touched her neck" as he was trying to get to the child in the bath. He conceded there was an argument about who was to bathe the child; he said that, when he tried to get the child (who was screaming) from the bath, the mother tried to prevent this – she blocked his passage, his elbow came up, he pushed past, she turned around and claimed "you strangled me" and ran out of the bathroom. He accepted that there was a "big struggle".
65. This evidence is in direct contrast to evidence given by him in an affidavit filed in April 2015[46] where he said that "the incident [Ms Edsall] describes that allegedly occurred on 28 December 2012 did not happen". In that affidavit, he also said (about this incident) that he had "never strangled [Ms Edsall] or harmed her, physically, in any way".[47]
66. When challenged during his cross-examination about the differences in his accounts, the father gave a third account (albeit one that he immediately corrected): he said "there was a struggle to get my son from the bath and my elbow came up and *may have* – no. It did. It contacted her across the neck, as I was pushing past her, as she was attempting to block my passage". He maintained that the mother was, at that time, physically assaulting him.
67. Ms S said that the mother telephoned her on 31 December 2012 and told her that the father put his arm across her throat. Ms S said that, when she asked the mother what the father was doing when that happened, the mother said that he was reaching across to get the child out of the bath but that she felt that he should have moved so he did not have to reach across her.[48]
68. Counsel for the mother, Ms Oakley, submitted that the mother's version of events of this incident should be accepted. Whilst the father's evidence as contained in his affidavit was that "it didn't happen" (that is, nothing like what the mother alleged had ever happened), his evidence during cross-examination sought to explain away the red marks on the mother's neck. It was submitted, in essence, that the father gave the version about pushing past the mother for the very first time during his cross-examination in March 2017 despite having addressed the mother's allegation in an earlier affidavit. It was submitted he did so because he was aware of the evidence given by Ms W that she had seen red marks on her sister's neck and sought to explain the same away by providing "a less repugnant version" of what happened that night.
69. I accept the evidence given by the mother about this incident. I am not persuaded that she engaged in self-harm (as was inferentially suggested by the father during his cross-examination) or that this explains her presentation to her sister that night. I consider that the mother's recounting – as reported by Ms S to the effect that the father put his arm across her throat- is not so inconsistent with the mother's account of the event as to persuade that the mother is lying about it; I do not accept for a moment that any interaction between the father's hand and the mother's neck was accidental or as a result of him attempting to push past the mother in the bathroom.

31 December 2012: the mother allegedly punches the father

70. Ms S (the father's sister) said that, on New Year's Eve 2012, she saw the mother punch the father very hard at a family gathering at the paternal grandmother's house.[49] She said the mother was in the kitchen by the stove making dessert whilst she was washing up; the mother's nephew (BB) kept asking her for a Wii remote and she thought the father (who was outside at the barbeque) had told him to keep asking her for it.
71. Ms S said that the mother went outside and started to yell at the father: she told him she was busy; she called him a "lazy pig" and called him other names and then drew her arm all the way back and punched him in the arm with a closed fist, using the full force of her body. Ms S said that when her brother (who she thought embarrassed) asked "what was that for?" the mother told him it was because of BB; he then said he had not sent BB in to ask her about the Wii remote but had told him to wait until after dinner. Ms S said the mother then returned to the kitchen and carried on with her preparations as if nothing had happened.
72. The mother agrees that Ms S (and others including the paternal grandmother, Ms W, Mr JJ and their children) were at the parties' house New Year's Eve 2012.[50] However, she disagrees with the assertion that she and the father disagreed or argued that night: she said she did not behave aggressively toward him; did not call him names; did not yell at him and did not push him or punch him in the arm. I accept the mother's evidence and that given by her sister and brother-in-law in this respect.

Events after separation

June – July 2013: the child sees his mother irregularly following separation

73. The mother said that, after the parental separation on 25 June 2013, the father told her she could not spend overnight time with the child; she said he would only allow her to spend time with the child at a park that afternoon.[51] She attended the park for approximately 45 minutes; the father was present and would not allow her to take the child home or to spend any longer with him.
74. The mother also said that, when she called the father the next day (26 June 2013) to arrange to see the child, he told her she would not spend any time with the child "unless you sign a piece of paper stating that I am the child's primary care giver".[52]

75. She said that, when she told him that she would not sign anything without first obtaining legal advice about it, the father told her she would never see the child again. Despite this, when the mother contacted him later that day (at around 2.30 pm), he told her she could spend time with the child if she went to the paternal grandmother's house and spent time with him there. The mother said she went to the paternal grandmother's house and spent approximately two hours with the child in the presence of the father, the paternal grandmother and her partner (Mr KK) and the father's sister. I accept the mother felt very uncomfortable during this contact.
76. The mother said that, on 27 June 2013, the father told her that he would allow her to see the child at her niece's birthday party; however, he later told her she was no longer welcome. She also said that, on 29 June 2013, he told her that, if she did not allow him to attend at the house to collect his tools, she could not see the child. She said that, later that day he told her she could see the child but again changed his mind to tell her that she could not see him that night.

28 June 2013: the mother applies for a Domestic Violence Protection Order Application

77. The mother applied to the L Town Magistrates Court for a domestic violence order on 28 June 2013: a temporary order was made that day. Its terms included that the father was prohibited: from coming within 400 metres of where she lived or worked; from attempting to locate her and from contacting or attempting to contact her except for the purposes of having contact with the child. It also required that he be of good behaviour toward her and not commit domestic violence against her.^[53]

30 June 2013: the mother spends time with the child at the paternal grandmother's home

78. I accept the mother went to the paternal grandmother's house with her friend Ms FF on 30 June 2013 to spend time with the child. I accept she was able to spend about an hour with him; I also accept that this was the only way in which the mother could spend time with the child at that time because the father would not allow her to spend time with the child at any place other than his mother's home.
79. The mother said that she continued to spend time with the child on an irregular basis until mid-July 2013, when she filed an Undertaking in the Court by which she promised to return the child to the father at the conclusion of her time with him. The Undertaking further provided that the mother would spend time with the child each Wednesday (from 8.00 am until 3.00 pm) and each Sunday (from 8.00 am until 5.00 pm).
80. I accept, as he conceded at trial, that the father's insistence that the child's time with his mother be supervised during the period from after separation until orders were first made was so that he could be certain the child would be returned to his care and not because he was concerned about the child's safety when with his mother.

Father's July 2013 Domestic Violence Protection Order Application

81. The father applied for a Protection Order against the mother in July 2013. His application asserted that the following alleged events provided the basis for the making of the order he sought:
- in September 2012: the mother threw a metal drink bottle at him; and
 - around Christmas 2012: the mother threw a cup filled with water at him and also kicked him; and
 - on New Year's Eve 2012: the mother punched him in the right arm; and
 - in April 2013: the mother whipped him with a tea towel and threatened to slap him.
82. It seems the mother was advised by her solicitor on 25 July 2013 that the father had applied for the order. However, he did not obtain a temporary order against her.^[54]

August 2013: the father lodges a complaint against the mother with the Council

83. The mother said that, in August 2013, she learned that the father had lodged a complaint with the EE City Council and that he alleged she was operating a business from her home (the previously shared home) in contravention of the relevant regulations.^[55] She said that, after this happened, she was unable to see the same number of clients as had historically occurred because she was then limited to using 25 square metres or less of the property for work related purposes and could only have a maximum of 10 vehicles per day attend at the property. In addition, she had to pay \$4,160.00 for a Material Change of Use Impact Assessment (which was granted, subject to conditions) and spent \$900.00 to make the necessary public notifications associated with the Application for Material Change of Use.
84. The father denied that he contacted the Council to tell them that the mother was operating her business from the premises. He said that, before the relevant renovations to the premises were undertaken, he told the mother that a Building Certifier had said it was not possible to have the studio certified to comply with the building standards for a commercial building.^[56]

The first parenting order is made: 26 August 2013

85. On 26 August 2013, Judge Howard ordered that the parents have equal shared parental responsibility for the child and that the child spend time with the mother from 8.00 am Wednesday until 5.00 pm Thursday each week and from 8.00 am until 5.00 pm on Sundays each week.
86. The mother said that, after this order was made, changeovers occurred at the father's residence (where he lived with the paternal grandmother); she also said that, whilst she was originally able to drive into the driveway and park off the street, issues soon arose.^[57]

4 September 2013: the father enters a moving car with the child

87. The mother said that, when she drove into the father's driveway to collect the child, the father yelled and told her that he would not give the child to her until she was parked at the gate.^[58] She said that, as she started to reverse her car out of the driveway, the father opened a rear door and jumped in: the child was in his arms. She said she immediately stopped the car and got out and the father yelled at her to get off the property and to park at the gate; she told him it was inappropriate to jump into a moving car with the child: she refused to restart her car, and took the child into her arms to settle him as he was quite upset.

22 September 2013: the father approaches the mother on a ride-on mower

88. The mother said that she drove into the driveway, exited her car and stood beside it to wait for the father to bring the child to her; the father, who was on the ride-on-mower with the child on his lap, rode up to her and did not stop until she opened the passenger side door to shield herself.^[59]

29 September 2013: the father, the paternal grandmother and her partner approach the mother at changeover

89. The mother said that, after she parked her car in the driveway of the father's residence and got out of the car, the father (who was mowing the lawn using the ride-on-mower and who had the child on his lap), started to yell at her and told her to leave and to get back in her car.^[60] She said she did not respond but the father told her that the child did not want to go with her and that she should leave. The mother said the paternal grandmother then came out of the house and shouted at her to leave because spending time with her was traumatising the child. The mother said the child then started to cry and the father told her he would call the police if she did not leave the property. She told him that the police could help to calm the situation down.

90. The mother said that the father then allowed her to take the child from him and put him in the car.[61] The mother said the paternal grandmother and her partner then both approached her car whilst she was putting the child in his car-seat; she said the father came up behind her and stood over her from behind, pressing up against her. She said that, when she asked the father not to do this and to step away, he ignored her and remained standing behind her, blocking her in the car door.[62]

2 October 2013: the father complains to AHPRA

91. On 2 October 2013, the father sent a written complaint about the mother's business to a regulation agency. The mother said he alleged she fraudulently claimed payments from the government for her services to clients.[63] She then had to provide evidence refuting the allegations made by the father: this required that she collate the documents needed to address regulatory requirements, which took a significant amount of time and impacted on her ability to work and, thereby, reduced her weekly earnings.
92. At trial, the father said that he made the complaint in order to help him to establish that he had done some work in the mother's business. Ms Oakley (Counsel for the mother) put to him that in making the complaint, he fully considered what he needed to prove and what he was prepared to do in putting the mother's professional standing at risk.
93. The father said he received correspondence from the regulatory authority (dated 1 August 2016) which updated him about what had happened since he was last notified about the investigation of his complaint about the mother. The letter informed him that, on 20 July 2016, the authority decided that the mother's professional conduct was unsatisfactory and took relevant action under the regulations.[64] It also conveyed that, from its perspective, the matter was closed.

4 October 2013: the father blocks the driveway

94. The mother said that, when she attended at the father's home to collect the child to spend time with her, the father blocked the driveway so she was unable to park off the street. She also said that, after changeover occurred, the father shouted at her to get "off the property". She said this distressed the child and he started to cry.[65]

13 October 2013: the mother takes the child to the hospital

95. The mother did not return the child to the father on 13 October 2013. She withheld him until 17 October 2013, pending a police investigation. The father said when he telephoned the police on 13 October 2013 to tell them that the mother had not returned the child to his care in accordance with the operative parenting orders, he was later told that, having investigated, police knew that the child was in his mother's care and "looked healthy".[66]
96. The mother said that, on 13 October 2013, she saw that the child's anus was "torn, bruised and red".[67] She took him to see Dr AA at L Town. The child was examined. She said she was told that he was suffering from anal tearing and tissue damage around the anus and that the possibility he had been sexually assaulted could not be ruled out. She said the doctor recommended she take the child to the hospital for further examination.[68]
97. After seeing Dr AA, the mother initially took the child home but later decided to take him to the hospital as recommended by the doctor. She took him to the CC Hospital. Her friend (Ms FF) called the father and told him the child had an injury, that it was not life threatening, and that they were taking him to the hospital. The mother then spoke to the father and told him she would be in touch once the child had been examined. She did not tell the father anything further because the doctor had advised her not to.[69] The mother said that, on the way to the hospital, Ms FF contacted the L Town Police Station: she was advised that the mother should have the child's injuries seen to and that they would pass her details on.[70]
98. The child was examined by Dr GG at the hospital. The clinical notes provide: "tiny 1-3mm fissure noted at 6 o'clock, no surrounding erythema noted".[71]
99. The mother said Dr GG advised her that the child's injuries were not significant enough to conclude that extreme sexual assault was occurring; further, she was advised that the two possible causes of the child's injuries were sexual assault or constipation.[72] The hospital records from the CC Hospital indicate that the mother expressed concerns about child abuse and said that the father or the father's friend may have abused the child.[73] At the trial, the mother did not recall identifying any person she suspected may have been responsible for any abuse.
100. The mother said Dr GG told her that she had spoken to police at the Suburb HH Police Station and would inform the Department of Child Safety (the Department) of the child's attendance at the hospital. She said the doctor encouraged her to take the child to the police station to make a statement about his injuries. The mother said Dr GG did not forensically examine the child because his injury was inconclusive as to abuse and a further examination would likely provide no further evidence about how the injury was caused.[74]

14 October 2013: the mother attends the police station with the child

101. The mother went to the Suburb HH Police Station after Dr GG's examination on 13 October 2013 but did not provide a statement. On 14 October 2013, she took the child with her when she went to the L Town Police Station: she provided a statement and police attempted to interview the child but he refused to be separated from her.[75] The Queensland Police Solicitor Office Report Details record that the mother told police that, when putting the child's nappy on, she noticed that his "anus was bright red all round, with some white coloured puss (sic) coming out of it".[76]
102. However, the mother did not describe the child's anus as having white coloured pus in any of her other evidence or when she presented at the hospital.

15 October 2013: the mother takes the child to see Dr II

103. The mother said she then took the child to see Dr II at the L Town Pharmacy Medical Centre to ask whether he should be receiving some sort of antibiotic to assist his recovery.[77] She said Dr II indicated that he did not think medication was necessary; however, he advised her to contact the SCAN unit at the EE Hospital to determine the cause of the child's injuries.
104. The mother spoke with someone from the SCAN unit of the EE Hospital later that day. She said she was advised that, if the doctors at the hospital felt a forensic examination was unlikely to determine the cause of the injury suffered by the child, the EE Hospital was also unlikely to undertake an examination.[78]
105. The mother said she was also told by police that day that, as the medical examinations were inconclusive, they were unlikely to proceed further with their investigation.[79]
106. I accept that correspondence sent by the mother's solicitor to the father's then solicitor conveyed clearly that the mother was *not* alleging that the father had sexually abused the child.

17 October 2013: the child is returned to his father's care/an alleged incident at changeover

107. The child returned to his father's care on 17 October 2013. The paternal grandmother said he clung to the father, would not let him go, was visibly traumatised and said he was not going back to the mother's ever again because she did not bring him home.[80] The father said the child screamed loudly in the mother's car, was hysterical and could not be coaxed out of the car despite attempts by the mother and the paternal grandmother's

partner, Mr KK. The father said he then lent into the mother's car, held the child under his armpits and lifted him out: he said that, whilst he held the child, the mother began thrusting her hips sideways into him and screamed that it was a breach of the domestic violence order.[81] He said he did not respond to her actions.

108. The mother said she was told the father was charged with a second breach of the domestic violence order following an incident on 17 October 2013. This was the first occasion on which the mother was to transfer the child into his father's care after she had retained him in her care following her reported concerns about the child suffering an anal fissure.
109. According to the contents of the relevant Solicitors Office Report,[82] the parents were then subject to a domestic violence order which was implemented 23 July 2013 and which was to expire on 31 October 2013 (although it was not known whether the father was present in Court when the order was made or whether he had been served with it). The report recounts, in essence, that it was reported that, when the mother (who was accompanied by a friend and her two children) attended to drop the child off to be with his father, the father approached her car to tell her she was late; it was reported that the child became very upset and moved into the rear of her car and was extremely upset about leaving her: he was clinging to the rear headrest and refused to be removed. After she tried to remove the child from the car the father told her to step aside; he leaned into the car as she was trying to take the child out of the car and pushed her out of the way; she alleged the father elbowed her in the shoulder and used his body to push her ("body slamming" her on her right shoulder); she told him to stop pushing her; she alleged the father then told her to "get the kid out of the car or I'll pull him out"; she then told him he was in breach of the domestic violence order and he stepped back from the car; the mother said a member of the father's family then tried to remove the child from the car: she told that person to stand back and leave her alone; the mother alleged that, a short time later, the father pushed the family member into her and forcibly removed the child from the rear of her car, at which time she told him not to hurt the child.
110. The Report noted that the mother provided a statement and video and audio footage of the alleged incident. It was also noted that police attended the father's home on 26 November 2013 to speak with him but he was not home. On 16 December 2013, they had contact with his then solicitor who advised that the paternal grandmother and her partner, Mr KK had seen the incident and accounts which differed to those provided by the mother.
111. In early 2014[83] the police ultimately determined that it was "highly doubtful" that the alleged offence had occurred; the reasoning underpinning this conclusion (which was arrived at despite the father's refusal to provide a statement) seems to be that the video footage the mother supplied did not show an assault upon her as she claimed: rather, according to the description contained in the Report, the video showed an upset child who was refusing to get out of his mother's car; after pleading with him to do so, the father reached into the car and removed the child; whilst reaching into the car he made contact with the mother, who yelled that he had breached his domestic violence order.
112. It is also recorded that, whilst both other witnesses (the paternal grandmother and her partner Mr KK) denied that the father came into contact with the mother, the video footage "clearly disputes this". The Report records that the video showed that the father walked into the mother while trying to retrieve their child from the vehicle. It was thought that "this heated incident" was intensified by the child being upset and unwilling to leave the car – this resulted in the father reaching into the boot to grab him and, in doing so, he made contact with the mother and moved her to the left as he reached into the vehicle. The police concluded that, in doing so, the father did not intend to assault the mother or breach the protection order.
113. The Report also recorded that the mother told police that she wanted the father to be arrested for breaching the order so she would have a better chance of having the domestic violence order made permanent and gaining "custody" of the child.
114. The Report concluded that, having reviewed all available evidence, the statements and the video footage, there was not enough evidence to support a protection order breach and, therefore, the complaint was deemed "unfounded".

20 October 2013: the child in the "shed"; the police attend changeover

115. The father said the child was not emotionally ready to spend time with the mother on 20 October 2013 because it was so soon after she had withheld him, he was extremely upset and it took him a few days to calm him down.[84]
116. The mother in fact attended the father's home with a friend (Mr LL) at 8.00 am to collect the child to spend time with her. She said she was told by "Mr KK" (the paternal grandmother's partner) that she would not be taking the child with her that day, that the child was not there and that she had been told she would not be permitted to collect him.[85] She said that as she was walking back to her car, she heard the child scream; she then heard noise coming from the garage.[86] The mother asked Mr LL to call the police to ask that they carry out a welfare check on the child. She said that, before the police arrived, she saw the father take the child out of the garage.
117. The paternal grandmother said that, when the mother arrived at the property, she was in the shed with the child; when he heard his mother, he said "let's hide Gran" and ran into the caravan parked in the shed.[87] She said they hid under the table in the caravan and locked the door. They left the shed after about 10 minutes and the paternal grandmother then took the child and walked with him to the back of the house.
118. After the police attended at the father's residence that day, they told the mother they had seen the child and he was okay.
119. However, as is obvious, the child did not spend any time with his mother that day.[88]

23 October 2013: the mother attends changeover despite being notified otherwise (the father's account)/the father withholds the child for the day (the mother's account)

120. The father said that, on 22 October 2013, the child was still distressed, having nightmares and was terrified of going to see his mother. As a result, he had his solicitor tell her that the child would not be available to be picked up on 23 October 2013. [89]
121. Despite this, the mother attended at the father's home on 23 October 2013 in an attempt to collect the child to spend time with her. He said she blocked the driveway and yelled out; he asked her to leave (because, on his account, the child became "traumatised") and she did so about half an hour later.
122. The mother agrees she attended the father's residence; she said he "started waving his finger" at her, to indicate that she should leave. She said that, later that day, she received correspondence from her solicitor which advised that the father would not make the child available to her because he was "clingy and unsettled". The correspondence also advised that the father had taken the view that it was not in the child's best interests to spend time with her.[90]

24 October 2013: the parties attend on Mr O for interview for the first Family Report

123. During their interviews, Mr O administered a Personality Assessment Inventory (PAI) to both parents. According to the test results, both parents attempted to present an unrealistically favourable impression in completing the test. A further suggested result was that each parent had minimised their responsibility or contribution to the problems which had arisen in their dispute.[91]
124. Mr O concluded that the mother's "profile" suggested increased stress levels compared to the normal, whilst the father's stress levels fell within "normal" levels. He assessed both parents as having a marginally elevated score on a measure of dominance – a matter he said indicated that each party tended to prefer to be in control of situations.

125. Given their interactions both before and after their separation (as detailed in these Reasons), I consider Mr O's assessment to be a prescient under-statement.

31 October 2013: the mother presses herself against the father

126. The paternal grandmother said that, when the mother and her friend Ms FF attended changeover on 31 October 2013, the mother intentionally pressed herself against the father in a forceful way when handing the child to him.^[92] She said the mother followed the father and continued to rub up against him after he took the child over to the ride-on mower; she also said it took the mother at least 10 minutes after arriving for changeover to leave the premises. The paternal grandmother also said that the child smelled of vomit, that his ear was stuck to his head with dried vomit and vomit was in his hair.^[93]

31 October 2013: father pleads guilty to breaching the Protection Order

127. The mother said that, on 31 October 2013, the father (whom she said pleaded guilty to the same) was convicted of breaching the domestic violence order.^[94] However, the Queensland Court Outcomes^[95] states that no conviction was recorded in relation to this charge.

November 2013: the father has gates installed at his home

128. In or around November 2013, a fence/gate was installed at the front of the father's residence. After this, changeover occurred at the gate. From the mother's perspective, changeovers at the father's home were extremely intimidating: she said it was common for the father, the paternal grandmother and her partner to approach her at her car and yell at her in front of the child.^[96]

129. The father said that, once the fence/gate was erected, the mother would park outside the property; she would walk or carry the child toward the gate; he would be waiting on the other side of the gate and, once the child reached it, he would open the gate and let him in.^[97]

130. From the paternal grandmother's perspective, the construction of the fence/gate resulted in a considerable reduction in problems at changeover.^[98]

17 November 2013: the first Family Report

131. In his November 2013 Family Report, Mr O concluded that it was not possible for him to recommend final parenting orders until the situation settled down. Consequently, he recommended leaving the orders as they then were (namely, the child living predominately with his father and spending time with his mother from 8.00 am Wednesday until 5.00 pm Thursday each week and each Sunday from 8.00 am until 5.00 pm) for a further six months, after which time an updated Family Report be prepared. He hoped he would then be able to make recommendations about final parenting orders.

132. As at the time of the first interview, the father's proposal for final parenting orders was that the child live with him and that he be able to particularise the remainder of his proposal following receipt of the first Family Report.^[99] At that time, the mother sought that she have sole parental responsibility, that the child live with her and spend time with his father according to a graduated regime, commencing with five nights each fortnight.^[100]

133. Even then, Mr O noted (in the context of a consideration of the mother's proposal for a shared time parenting regime) that the communication between the parents was miserable. He thought the mother's actions in taking the child to the doctor, the hospital and the police twice and then withholding him from the father for three days, about a month after the operative parenting orders had been made, was probably tactically motivated. I do note, though, that in his second Family Report, Mr O conceded^[101] that, if the mother's account was correct and that she had been advised to take the child to the police, he may have been too hasty in his conclusion that her actions were "probably tactically motivated". Even with this concession, his stood by his assessment of the parents' ability to co-parent historically and currently or his observations of the tensions between them.

134. He considered that, given the sequence of events, it was unsurprising the child was reportedly unwilling to leave his father at the more recent changeovers; he also thought that the mother's actions in insisting on a police check and refusing to leave the property (despite having been given written advice that the child would not be provided to her, further inflamed the situation).

135. Mr O suggested – even then – that each parent was focussed on trying to prove fault in the other at some level.^[102] He said that, regardless of the validity of any complaints made by the father to official bodies about the mother, such an action would only inflame the dispute and the antagonism that the parents currently felt towards each other.

27 November 2013: the mother is alleged to drive dangerously

136. The paternal grandmother said that, about 20 minutes after changeover occurred on 27 November 2013, the father called her to say that the mother, who had been parked outside the neighbour's house, had pulled out in front of him – she was said to have been videoing him weaving all over the road to prevent him from passing.^[103] It seems the father reported this incident to the police.

137. There is nothing in the mother's affidavits about this alleged incident. She was not cross-examined about it.

2014: The father unilaterally enrolls the child at kindergarten

138. I accept that the father did not inform the mother that he had enrolled the child at the MM Day Care program in 2014.^[104] I also accept that she learned he attended that program because the child told her he did.

3 March 2014: mutual final Domestic Violence Orders are made

139. On 3 March 2014, a final domestic violence order was made against the father; the mother also consented to an order being made against her (in the father's favour) on the same day. Both orders were operative until 3 March 2016.

26 March 2014: the child says the mother gave him a needle in his tummy

140. The paternal grandmother said that, on 26 March 2014, the child said he did not want to go to his mother's because she gave him a needle in his tummy and told him it would only sting for a little while.^[105] She said that, when the father asked the mother, she denied giving the child a needle.

141. The mother did not give any evidence about this allegation in her affidavits^[106] nor was she cross-examined about this allegation.

142. During his cross-examination, the father agreed that the allegation that the mother had injected the child in the stomach was a very serious allegation. According to his evidence, it was not merely an allegation but "a fact". He said that his mother immediately told him that the child had complained to her about this. Despite him saying that this amounted to evidence that the mother had administered medication to the child which had not been prescribed for him, he agreed he did not take the child to a doctor to be examined and he did not seek to have a blood test done to determine whether the child had in fact been injected with any medication he should not have received.

143. After this incident, the paternal grandmother said that the child told her that he is not allowed to talk about anything that happens when he is with his mother.^[107] The father said the child made the same comment to him.^[108] During her cross-examination, the paternal grandmother also said that the last occasion on which the child told her that he had to tell his mother everything that happened in his father's care was toward the end of 2016.

May 2014: the mother advised the father that the child is suffering from asthma

144. The father said that, in about May 2014, the mother told him that the child was suffering from asthma.[109] He said that, when he asked her about the respiratory professional upon whom the child had attended, she told him that she had assessed the child herself.[110]
145. The mother said the father told her he did not believe the child suffered from childhood asthma and he has repeated his belief to her on a number of occasions via text message, at changeover and over the telephone.[111]
146. The father said that he obtained advice from Dr NN at BB Medical Centre. This advice was that the child did not suffer from asthma.[112] He said he told the mother about this diagnosis. He also said that, because of this advice, he did not administer asthma medication to the child when he was in his care and asked the mother to stop administering asthma medication to the child.[113]

3 July 2014: the mother administers the child medication at changeover

147. The paternal grandmother said that, at changeover, the mother administered medication to the child; she also gave the father a letter from a doctor which said he had to take antibiotics for a chest infection and drugs for asthma.[114] The paternal grandmother said the child vomited soon after taking the medication. She also said that, whilst the mother continued to insist that the child suffered from asthma, she had never seen him have an asthma attack; she joined in the father's view that the mother insisted the child suffered from asthma and "numerous other illnesses" [115] when this is not the case.

6 July 2014: the child attends hospital

148. The mother said that the child attended hospital for an ear infection and pain on 6 July 2014. She said the father did not tell her about this attendance. The then operative parenting order – made by Judge Howard on 23 June 2014 – provided that all communication between the parties occur by way of registered post, save for any urgent communication with respect to the child.
149. During his cross-examination, the father said he had sent the mother a text message about this attendance; he denied that it was left to the child to tell his mother about his attendance at the hospital on this occasion. The paternal grandmother said that the child was already taking a course of antibiotics (prescribed by the mother's doctor) for a chest infection at the time. She also said that the following night (7 July 2014) was a "particularly bad night" because the mother constantly sent text messages to the father in which she accused them of trying to kill the child by failing to provide him with necessary medication.[116]

July 2014: the mother is charged with breaching the Domestic Violence Order

150. In July 2014, the mother was charged with a breach of the domestic violence order which had previously been made in the father's favour. She said the matter was listed for hearing in the OO Town Magistrates Court; it related to an occasion on which she arranged for two male friends of hers to serve the father with documents associated with an application to have a caveat he had lodged over the title of a particular piece of real property removed.
151. I accept the mother's evidence that, whilst the matter was listed for final hearing on 20 August 2014, the police decided not to offer any evidence and dropped the single charge brought against her.

About August 2014: the mother administers medication to the child at changeover

152. The father said that, in about August 2014, the mother began to administer asthma medication to the child at changeovers.[117] He did not agree the child needed asthma medication; in fact, as noted earlier, he positively disagreed that the child take any medication for asthma because Dr NN had said he did not suffer from asthma.

10 August 2014: changeovers at McDonald's L Town begin

153. The paternal grandmother said that, on 10 August 2014, the mother told her she was going to return the child at McDonald's L Town rather than at the paternal grandmother's home. However, the child was dropped at the L Town Police Station and was collected from there by her partner (Mr KK).[118]
154. The mother said that, once the changeover location was moved from the paternal grandmother's home (where the father was then living) to McDonald's L Town, the paternal grandmother attended the majority of changeovers: at the beginning at least, they were uneventful.[119]

27 August 2014: the child attends on Mr PP (psychologist)

155. The mother organised for the child to attend on Mr PP (a psychologist) because she said he had been exhibiting "concerning behaviours". These included biting himself and chewing intensely on his clothes.[120] She said the child had bruises on his right forearm which she believed were the result of him repeatedly biting himself; she said she had seen his bite marks on the surface of his skin.

31 August 2014: the mother wraps her arms around the child and the father

156. The father said that, on 31 August 2014,[121] his brother-in-law Mr S accompanied him to the 5.00 pm pickup. The father said he walked to the mother's car to collect the child; however the mother followed him back to his car, even after she was asked three times to step away from him. He said that, as he opened the back door to put the child in his seat, the mother was right beside him; when he turned to face her, she wrapped her arms around him and the child.
157. That this event was outlined by the father under a heading "problems at changeover" is an apt demonstration of the level of animus which then existed between the parties – and which has shown absolutely no real signs of ameliorating despite the passage of time.

1 September 2014: Mr PP makes some recommendations about the child's care

158. On 1 September 2014, Mr PP recommended that the child have telephone communication with both parents each day at set times. He also recommended that the parents be involved in the child's play (with a focus on his hands) and implement a consistent routine where possible.[122] The mother said Mr PP also diagnosed the child as suffering from anxiety.
159. The mother said that, after receiving Mr PP's suggestions, she sent the father a letter in which she advised him of them. Whilst it is not entirely clear whether the father responded to this particular correspondence, his overall attitude is certainly that the mother refuses to accept medical decisions she does not agree with[123] and "doctor shops" until she obtains the recommendations or medications she considers appropriate for the child[124]; he also considers that she does not take directions from doctors with whom she does not agree[125] – although, of course, the same can easily be said of him.

3 September 2014: the father threatens the mother

160. The mother said that the parties effected changeover in a car park; she said that, when she went to reach for the child's hand, the father raised his hand to his chest, as if to back hand hit her and said "step back, step back or I will wallop you".[126]
161. After she waited for the father to make the child available to her, she was able to leave with the child.

14 September 2014: the father circles his finger at the temple of his head

162. The mother said that she gave the child his medicine in front of the father at changeover so that the father would know what she had given the child. Her evidence is that the father walked around her car repeatedly, circled his finger at the temple of his right forehead^[127] and said: “you’re sick [Ms Edsall], nobody else is sick”; “you’re sick in your head”.^[128]
163. In order to appreciate properly the father’s demeanour at various times during his cross-examination (and, thus, to appreciate properly the likely manner in which he has acted toward the mother at various times), it is instructive to have regard to the following example of the manner in which he decided to respond to questions asked of him by the mother’s Counsel, Ms Oakley:^[129]
- MS OAKLEY: Now, I want to suggest to you on other occasions you direct other gestures towards my client at changeover. One in particular is where you circle your forehead with your finger in an effort to gesture that my client is mentally unwell. Do you accept that?---Circle my forehead like this?
- MS OAKLEY: At the side of your forehead?---Like this?
- MS OAKLEY: Side of your forehead?---Forehead, yes.
- MS OAKLEY: Side of your forehead?---Which side?
- MS OAKLEY: Doesn’t matter. Do you know where your forehead is?---No.
- MS OAKLEY: You don’t?---No.
- HER HONOUR: [Mr Rabkin], please?---It’s your front forehead, isn’t it, your Honour, or, sorry, is it side head?
- HER HONOUR: Really?---I don’t.
- HER HONOUR: Anyway?---Sorry. I’m not medically qualified.
- Okay. No?---I’m a [tradesman].
- MS OAKLEY: We will get to that in due course. But if you place your finger where you think you might have located it?---Temple.
- MS OAKLEY: Yes?---On the temple.
- MS OAKLEY: On that part of your body, I want to suggest to you, you routinely gesture a circle to indicate at changeovers that my client is mentally unwell. Don’t you?---It’s possible.
- MS OAKLEY: Well, it’s exactly what you do, isn’t it, sir?---No. I’m not saying it’s exactly what I do. It’s possible.
- MS OAKLEY: It’s possible?---I don’t really recall the incident, so I could have been scratching the side of my head too, counsel.
- MS OAKLEY: Sir, you’re giving sworn evidence to a judge?---I know, but I don’t recall the incident.
- MS OAKLEY: I see?---I can’t answer the question if I don’t recall the incident.

17 September 2014: the paternal grandmother takes the child to Dr QQ

164. The paternal grandmother took the child to see Dr QQ (at BB Suburb E) on 17 September 2014. She said the doctor advised her that the child did not have asthma – rather, he had a cold.^[130] She said that, the next day (18 September 2014), the mother gave the child an extra dose of antibiotics in front of her and the father: she said the child was covered in bites by the time they arrived home and the rash worsened. They took the child to an emergency doctor at Suburb RR Medical Centre: he was diagnosed him with hives.^[131] The paternal grandmother said that the doctor they saw told her and the father that he believed the rash had been caused by the child being “overdosed” on antibiotics. There is nothing in the documentary exhibits before me to corroborate the accuracy of this recounting.
165. As I understand her evidence, the mother said she only learned of this event (which she described as the child suffering an anaphylaxis reaction) after she saw Mr O in March 2015, at which time her proposal was that the child spend six nights each fortnight with his father; her knowledge of this event caused her to change her proposal about the child’s time with his father to that he live with her and spend time with his father from after school Friday until before school Monday and for one half of the gazetted school holidays.^[132]

Early October 2014: the father alleges that the mother left the child in the care of a neighbour’s son

166. The father said that, when he picked the child up on 4 October 2014, he was very upset and told him that the mother had left him in the care of “SS” (a person the father knew to be a minor).^[133] He said the child told him SS had left him alone and gone home; the child said he was scared and crossed the road alone to SS’s house.
167. The mother denied that this event ever occurred.
168. She obtained evidence from Mr TT,^[134] security advisor who was present when his contractors installed a CCTV recording system in the mother’s home in August 2013. Mr TT said he reviewed the footage of 5 October 2014 between 2.05 pm and 3.02 pm and provided that the mother left the house patio and entered the back yard at approximately 2.05 pm and returned from the back yard and entered the house at 3.02 pm, and during this time the mother’s vehicle remained on the premises and did not move.^[135] Mr TT was not cross-examined at the hearing.

31 October 2014: the child attends Greenbank Medical Centre

169. The father said the child attended Greenbank Medical Centre for his recurrent cough on 31 October 2014.^[136] He said the doctor (Dr NN) advised him that the child did not suffer from asthma. He also said that, given this advice, he did not administer medication to the child whilst he is in his care: he also asked the mother to stop giving the child asthma medication when he is in her care.^[137]

5 November 2014: the child and his parents attend Dr UU, allergist

170. The father said Dr UU told him, when he asked whether exposure to the mother’s dogs could cause the child’s croup (which in turn led to him suffering asthma) that it was a combination of dust mite, cat, dog and mould.^[138]

13 November 2014: the child remains with the mother as changeover did not occur

171. It seems that the child spent 13 November 2014 in his mother’s care because the parties were unable to effect changeover that day: both alleged that the other left the car park before the child could transition from his mother’s care to his father’s care. Further, despite exchanging various text messages, they were then unable to agree on an alternate time to effect changeover.
172. From the father’s perspective, the mother was intentionally being difficult because, as she lived only about five km from the paternal grandmother’s house, she could have returned the child to his care at any time.

16 November 2014: the mother “hides” at changeover

173. The paternal grandmother said that, when she and Ms S attended for changeover at McDonald’s L Town on 16 November 2014, they could not locate the mother, despite finding her car “hidden from view” behind a concrete wall.[139] She also said that, when the mother and the child exited McDonald’s he told his aunt that he and the mother had been hiding, which he thought was a game.

20 November 2014: the child attends Dr VV, respiratory paediatrician

174. On 20 November 2014, the mother took the child to see Dr VV, a respiratory paediatrician. Having assessed the child, Dr VV said he had a history which was comprised principally of recurrent episodes of coughing, with several episodes of croup. He thought most of these episodes appeared to be virally induced.[140] He also noted that, in the absence of wheezing, asthma was unlikely.

175. Dr VV recommended that the child be trialled off all medication over the summer months; he said he should only be given Ventolin if he had a wheeze or increased “work of breathing”; he recommended an antibiotic if the child had a moist cough for more than two weeks.[141]

176. The father said that, despite Dr VV’ advice, the mother continued to administer medication to the child at changeover.[142]

177. During her cross-examination, the mother said that she thought that the child had been referred to Dr VV for repeated coughing and bronchitis but not for respiratory distress. She said she told the father about the appointment but could not recall – when this was suggested to her – that this occurred after the visit to Dr VV had occurred. She said that Dr VV was the first respiratory physician to see the child, who has subsequently been seen by Dr WW and Dr XX (paediatric respiratory physicians). She explained that Dr XX worked with Dr VV such that, if Dr VV was unavailable, the child would see Dr XX.

178. The mother said Dr VV diagnosed the child as suffering from trachemolacia or asthma. She agreed he recommended trialling the child off all asthma medication but asserted that this recommendation was made given that Dr VV had been told that the child was not receiving consistent medication in both parents’ homes because – by then – the father had told her that he was not giving the child the asthma medication which had originally been prescribed for him. That is, her evidence was that the recommendation to cease medication was not because the child did not need it but because the father was not giving it to him when he was in his care.

179. I note the mother also accepted that Dr VV would remain as the child’s principal treating practitioner insofar as his respiratory issues are concerned.

28 November 2014: Dr YY (paediatrician) makes recommendations about the child’s care

180. The mother said Dr ZZ, the child’s general practitioner, prescribed Singulair (a daily preventative asthma tablet) for him since he was a little over 12 months of age; however, because of the father’s inconsistency in providing this to the child after the parental separation, this was discontinued and, instead, the child had an inhaler to be used when required. It is against this background that she said that, on 28 November 2014, Dr YY, a paediatrician recommended that the child continue taking Singulair and his inhaler; according to her, he also wrote “prednisolone for three days” on a written Asthma Action Plan – to be taken if the child’s breathing symptoms worsened when he was sick and/or without being sick.

Early 2015: the child attends counselling

181. The mother said the child attended about eight counselling sessions in early 2015. He was then about four years old. This was whilst he was waiting to be seen at Working Against Violence Support Services (WAVSS) where the mother was also receiving counselling in 2015.[143]

22 January 2015: the mother alleges she is injured at changeover by the paternal grandmother

182. The mother said that, after 17 November 2014, she had advised the father that she would only do changeovers inside McDonald’s due to her allegations that he had breached the domestic violence order at changeovers and because she was fearful.

183. She said that, during the changeover on 22 January, the paternal grandmother pulled at her left shoulder and the child’s arm (who was in her arms at the time) whilst she was walking towards the entrance to McDonald’s.[144] She said she was pulled with such force that she jarred her back and almost fell backwards. She said the paternal grandmother continued to pull at her and pulled at the child and told her to put him down because she was already late; she said the child became upset and started to cling to her around her neck; as she realised she had hurt her back, the paternal grandmother continued to yell at her to put the child down and also continued to hold onto her right arm and pull her; in summary, she also said that the paternal grandmother tried to pull the child away from her by grabbing his waist whilst he was trying to hang onto her by gripping her tightly; she said she felt the paternal grandmother simultaneously push her away by pushing at her hip/stomach region; her evidence is that the paternal grandmother did this several times. The mother also said that she then tried to put the child down; he was screaming ‘No’; she told the paternal grandmother to “stop; let go” a few times and eventually managed to put the child down: she said he was crying and gasping for breath (because he was crying). She said that, once he was on the ground, the paternal grandmother held him with her hands under his armpits from behind and pushed him toward her car: he was red in the face from crying and tried to turn to get away from his grandmother, whom the mother then called a “disgusting woman”; she also told her that she had hurt the child.

184. The mother reported this incident to the police the next day and said that, as a result of it, she suffered back and leg pain, needed physiotherapy treatment and had to take various medication.[145] She also said that, as at February 2017, she continued to experience daily pain from the injuries she suffered on this occasion, which resulted in her being unable to work full-time hours and reduced her earning capacity.[146]

185. The paternal grandmother said that changeover that day occurred in the car park despite the mother saying that it was to occur inside. She said the mother would not hand the child over; she asked her to put him on the ground but, after waiting for a minute, she then “took the child off” the mother and put him in the car.[147]

186. During her cross-examination, the paternal grandmother said she touched the mother’s arm but did not grab the child from her; she said she lifted him up under his arms and, in that process, touched the mother’s arm; she denied that she caused the mother any physical injury; she denied pushing the mother and reiterated that the only part of the mother’s body that she touched was her arm. Whilst she denied being angry at the time and said that she just wanted to get away from the mother, she accepted that she was agitated because “it” was not a happy event; she denied that she was angry because the mother was late for changeover and said the mother was always late. The paternal grandmother said that, after the mother’s complaint, she was formally cautioned by police at the police station. They did not charge her with any offence.

187. When she was cross-examined about this event, the mother accepted that, whilst she had a video of events on 22 January 2015, the video did not capture anyone’s arms and, thus, did not show that the paternal grandmother had grabbed her. She accepted that the grandmother told the truth when she said she had touched her (the mother) on the arm: she said a video showed the paternal grandmother’s hand on her arm. The mother also accepted that the video did not show that the paternal grandmother pulled her back with such force that she jarred her back – as she had said in her affidavit; as I understood her evidence it seemed that she sought to explain this by noting that the video taken that day was taken from her glasses’ video. Given that this also recorded audio, she accepted that she had called the paternal grandmother a “disgusting woman” as she walked to her car – she said she regretted saying that.

188. The mother rejected the suggestion that she had invented or made up her allegation that the paternal grandmother pushed her away by using her arm to push at her hip/stomach region: she said the video showed the paternal grandmother pushing and shoving the child who, she accepted, would likely have been upset at the interaction between his mother and grandmother. She denied being late and denied that she had acted in any way to contribute

to or cause her to take any blame for the events that day: she reiterated that, as she was walking toward McDonald's she was pulled from behind by the paternal grandmother, something which she did not expect to happen.

189. The mother said that, as a result of events that day, she sought that the paternal grandmother not facilitate changeovers.

28 January 2015: the mother applied for a Peace and Good Behaviour Order against the paternal grandmother

190. The mother said that, as a result of the paternal grandmother's actions towards her on 22 January 2015, she applied for a Peace and Good Behaviour Order against the paternal grandmother on 28 January 2015.^[148] The mother said police told her that the paternal grandmother had been formally cautioned on 30 January 2015.

191. On 19 March 2015, the mother changed her application to seek a domestic violence order against the paternal grandmother: she said that her application was unsuccessful because the paternal grandmother told the Court she would no longer do changeovers or have contact with the mother.^[149] Whilst the paternal grandmother did not address this in her affidavit, she was cross-examined about it. When it was first suggested to her that she told the Magistrate it was not necessary for an order to be made because she would not be attending future changeovers she said that she did not recall saying that; she then said that she remembered saying that her children did not want her to attend changeover and she would not be going anymore.

2 March 2015: father applies to vary Domestic Violence Order

192. On 2 March 2015, the father applied to vary the domestic violence order he had obtained against the mother. This order was varied on 3 March 2015 to add the paternal grandmother and Ms S as "named persons".

5 March 2015: the parties attend Mr O for interviews for the second Family Report

193. Mr O, who thought it unfortunate that there had not been a review of the parenting agreements in the fifteen months which followed the preparation of the first Family Report,^[150] noted that, at this time, the parenting arrangements had continued largely without change. He concluded that the parents did not appear to have been able to improve their communication to a level that could sustain either an equal time shared care arrangement or a significant and substantial time arrangement.^[151]

194. He noted that, during her interview, the mother raised numerous issues about the child's health; she said she did not believe the father would communicate with her about health issues.^[152] She also detailed the problems which had occurred, such as those associated with changeovers (including when facilitated by the paternal grandmother), with telephone contact and past domestic violence. During his interview, the father reported numerous concerns about the mother, including concerns about her parenting capacity; he expressed that the parents could not co-parent. He refuted the mother's claims that he did not provide for the child's medical needs: he said he believed the mother gave the child more medicine than was prescribed for him.

195. Having interviewed the child in two separate sessions for a total of forty-five minutes, Mr O reported that the child engaged easily, though at times was difficult to understand because of a speech delay. Mr O noted that, whilst the child started to say how many sleepovers he wanted at his mother's and his father's homes, there was no real consistency in anything he said on the issue. However, he did make quite a clear comment that he wanted more sleepovers at his mother's home ("Cos I love Mum").^[153]

196. Whilst Mr O concluded that the child gave no clear indication of having been coached by either parent, he thought him focused on saying how many sleepovers he wanted at each home, something Mr O thought to be an unusual focus for a four year old child.^[154]

197. Having observed the parents interact with the child, Mr O did not report any concerns with respect to the level of care each provided; he thought the child's attachments to each parent and to his paternal grandmother appeared secure.^[155] He opined that the only way he could differentiate between the quality of parenting provided to the child by each parent was that the mother appeared to have taken up some of the recommendations he made in his earlier report.^[156] He said, in essence, that, in contrast to this, the father did not appear to have really fully understood the importance of issues he raised in his first Family Report, particularly in relation to the speech therapy assessment.^[157]

198. Given this, Mr O opined (at that stage and on the basis that the evidence had not then been tested) that the mother would be more likely than the father to ensure that the child's special needs were met.^[158]

199. Mr O also noted that the parents did not appear to have been able to improve their communication to a level that could sustain either an equal shared care arrangement or a significant and substantial time arrangement once the child attended school.^[159] He assessed the level of trust between them as "absolutely minimal," despite the fact that each had engaged in a post-separation parenting program of some type.^[160]

200. Mr O also said that, given the time that had elapsed since his first report and its recommendations about the need for parental co-operation, it was most unlikely that the situation would change markedly in the future with respect to co-parenting capacity.^[161] He considered it did not auger well for either an equal time shared care arrangement or a significant and substantial time arrangement over the long term.^[162] Having said this, Mr O was unable to assist in the determination of which parent had been the more (or less) responsible for their failure to co-parent.^[163]

201. Mr O also noted that the child had been referred for psychological treatment under a Mental Health Plan and that the mother had told him that the child was exhibiting very aggressive behaviours and much anxiety. Mr O opined that this did not surprise him given the ongoing conflict between the parents.^[164]

202. Mr O outlined that the father held an extremely dim view of the mother: he was convinced she would continually try to set him up. He told Mr O he had been advised to stay away from her as much as possible and to have no communication with her whatsoever. From his account to Mr O, Mr O concluded that he appeared to have chosen to follow that advice more or less to the letter.^[165]

203. The father described the mother to Mr O as a "lying narcissist"; he appeared to think that, if he was successful in his property proceedings claim, she would have an even greater level of hatred towards him than she already did.^[166] The father said he could not imagine any set of circumstances that would allow the parties to have a co-parenting relationship, saying that the mother tries to frame him all the time and considers that she always has to have things her way.^[167]

204. When asked by Mr O to relate his two most prominent concerns, the father said simply that the mother is "an abusive, controlling, self-indulged, spoilt brat who never has been and never will be child-focused".^[168] When asked why he had not told her about the child's day care/kindergarten program, he said clearly that he wanted nothing to do with the mother; he said "I won't talk to [Ms Edsall]".^[169] When asked why, the father expressed a fear of the mother – he said she was abusive to him and that he had put up with her controlling behaviour for years and, in essence, would not do so any longer.

205. Mr O noted that the mother maintained that she continued to be fearful of engaging the father; he observed that she clearly did not trust him: she had cameras on her car, apparently wore a camera on her person during changeovers and recorded all conversations with him.^[170] He thought her parenting proposal to be unusual in that she proposed that she have sole parental responsibility but that the child spend significant and substantial time with his father (up to six nights per fortnight).^[171]

206. Mr O said that, where there had been protracted conflict between the parents, very poor communication, and where their regard for each other was so low that their abilities to encourage a positive relationship with the other parent was questionable, it could be necessary – so as to minimize risk of emotional harm to the child – to have an arrangement whereby he lived for the majority of the time with one parent (who could make decisions when needed, who was sufficiently nurturing and caring and attuned to his needs and who appeared the most likely to encourage a relationship with the other parent).[172] He said such an arrangement could still allow for the child to spend meaningful time with the other parent, provided that this could be achieved with minimum disruption, conflict, and emotional distress to him.
207. Mr O also thought that, if the circumstances were as summarised briefly above, any opportunity for greater flexibility in time arrangements would be less when the child commenced school.
208. Consequently, Mr O recommenced that, once the child commenced school in 2016, he start to live with his mother for the majority of time.[173] Having discussed a transition period (given that the child had, at that time, lived with his father and paternal grandmother for the majority of time), he recommended that, once school started, the child live with his mother and spend time with his father each alternate weekend from after school Thursday until before school the following Monday.[174]
209. Mr O also recommended that the child attend the one General Practitioner or general practice: he said there was a need for consistent medical management and recommended that the parents attend specialists with the child only on the advice of doctors from the one general practice.[175]

1 April 2015: the mother applied to vary the Domestic Violence Order

210. On 1 April 2015, the mother filed an application to vary the protection order she had against the father. The variation was granted the same day: the child was added to the order.[176] Further, the order was extended (with the father's consent until 3 March 2017).[177]

April 2015: the child starts to see Ms AB (psychologist) following a referral by Ms BC (child psychotherapist)[178]

211. The child started to see Ms AB (an educational and developmental psychologist) in April 2015. Whilst he did so because Ms BC (a child psychotherapist) had requested an assessment of his functioning, it seems that Ms AB was previously involved with him when he attended at JK Group by DJM Psychological Services for counselling sessions at the beginning of 2015.

14 April 2015: the mother takes the child to see Dr CD

212. The mother took the child to see Dr CD on 14 April 2015. According to the notes, the history she provided about the child included that: "sleeping open mouth and gets frequent allergic rhinitis and asthma attacks. Mom has brought in his medical records, spirometry, specialist reports etc".[179]
213. Dr CD diagnosed asthma/allergic rhinitis. He recorded that the documents brought in were reviewed and discussed and that explanations and advice was given to the mother; he advised that she consider the child receiving the influenza vaccine. An x-ray to review his adenoids was requested.

15 April 2015: the child attends on Dr XX (Respiratory Paediatrician)

214. The mother took the child to see Dr XX (a respiratory paediatrician) on 15 April 2015. She wanted a second opinion from him about the child's symptoms.[180] He noted she was concerned that the child had asthma and that, as he had not yet been diagnosed with the same, this may have been affecting his overall medical management. She said, during her cross-examination, that she obtained a referral to Dr XX, who she said worked with Dr VV but was more experienced; she also said that she thought at the time that there was a benefit in doing this and that, if Dr VV was unavailable, the child would be able to see Dr XX.
215. Dr XX noted he had a lengthy discussion with the mother: he explained to her that, based on the history provided and sequential lung function, the child did not have asthma. He said it was absolutely safe for the child to be on no preventative medication, even though he had previously been on the same (which ceased at the end of 2014).[181] Dr XX said he reiterated that the child's cough symptoms were very infrequent and did not then need treatment. He said he told the mother it was inappropriate for her to manage his symptoms (if any) with her medication (which she had done previously) and that, if he developed symptoms, she should seek medical help through a general practitioner or emergency department.[182]

18 April 2015: the mother takes the child to see Dr DE

216. The mother took the child to see Dr DE on 18 April 2015. According to the notes, it was a long consultation: "mom here for asthma action plan; written asthma action plan provided and condition discussed in details; mom will give a copy to his father and school".[183]

21 April 2015: the child has speech difficulties

217. The mother said that, when she spoke to the child on the phone on 21 April 2015, he had some difficulty speaking properly; his stammer (which she said first occurred in December 2013 and which had mostly resolved in February 2014 when he started speech therapy) had returned.[184] She also said that, on 22 April 2015, she noticed a change in the child's behaviour: his stutter was very bad and he was particularly clingy that week.
218. She attributed these behaviours to matters she said he told her over the telephone on 21 April 2015: namely, that he told her that "daddy does want you to die"; she said she then heard him cry and then scream before the phone went silent.

29 April 2015: the mother takes the child to see Dr DE

219. The child saw Dr DE again, on 29 April 2015. According to the notes, the doctor recorded that the child was presented with hay fever, but his nasal examination was okay. The doctor recorded that the mother asked him to give her a medical certificate as she thought the father did not give the child the medication.

1 May 2015: medical certificate from Dr DE

220. The evidence establishes that, on 1 May 2015, a Dr DE issued a medical certificate for the child: this said that the child had been given an "asthma action plan" based on the history of the medical condition provided by his carer (the mother) and not according to any specialist advice.[185]
221. It seems the medical certificate was issued when the father attended on Dr DE on 1 May 2015. According to the notes of that consultation, the father said he had 80 per cent custody; that the mother had lied to the Court and said that the doctor placed the child on an asthma action plan based on specialist recommendation; he claimed the specialist recommendation was that the child not use any kind of asthma medication and he said the child was allergic to pet hair at the mother's house.
222. According to the notes, Dr DE explained to the father that his decision had been based on the history provided by the carer. He noted that the father claimed the child had a speech problem and asked for a care plan.[186]
223. It is obvious that the prescription of an "asthma action plan" for the child – said to be based entirely on the history provided by the mother – is entirely at odds with the conclusions reached by Dr VV (November 2014) and Dr XX (April 2015) who both told the mother that, in their respective opinions, the child did not have asthma.

6 May 2015: the mother's friends attend changeover

224. The mother's friend (Mr LL) and her receptionist (Ms EF) attended changeover on the mother's behalf on 6 May 2015 because she was unavailable that morning. The mother said the father had previously consented to Mr LL facilitating changeovers in her absence.
225. Mr LL said that, when he approached the father, the father said "he's not going with you", "mummies not here so... see ya".^[187] Mr LL said the father told him: "the child doesn't want to go near you"; "take off, get out of here". When he stayed, the father shouted words to the effect: "get out of here, get out of here now otherwise I will just take the kid". After that, Mr LL moved to the courtyard of the front of the McDonald's to accommodate the father's wishes.
226. It seems that Ms EF then approached the father; Mr LL said he could hear him shout at her. He said that when Ms EF brought the child over to him, he could see that the child was crying and wiping tears from his face. He also said that Ms EF told him that she was shaking.^[188] He thought the child had been crying right from the start of the incident.

8 May 2015: Ms W meets with the father

227. Ms W said that, when she met with the father on 8 May 2015 (the day after the trial ended before Judge Howard), he told her that the mother "needs to agree 7/7 on parenting now before the property matters otherwise I will contact EE Council and tell them she is operating her [business] illegally...". She also said that he told her that "these are my terms and if she doesn't accept them, she will face the consequences..."^[189] There was no challenge to her evidence in this respect. She also said that the father told her that, if the mother agreed to his parenting proposal, he would "not make her get rid of the dogs".^[190]
228. It is relevant that, at the time of their conversation, Counsel still had to provide written submissions to the Court.
229. During his cross-examination, the father accepted he told Ms W that: "[Ms Edsall] needs to agree 7/7 on parenting now before the property matters otherwise I will contact [EE] Council and tell them she is operating her [business] illegally because the building is illegal"; "it's just a matter of time when she won't have a business to run from her property"; "it is not a case of if but when".
230. However, he said he did not recall saying: "these are my terms and if she doesn't accept them she will face consequences"; "she has to agree on parenting on my terms before submissions otherwise I am going to contact the Council"; "I am definitely not going to wait till judgment and will contact them also before submissions if she doesn't agree quickly." He did not recall commenting about how much the mother cared for the dogs or saying that it would be a blow to her if the dogs went.

20 May 2015: the father withholds the child for a week

231. The mother said she did not spend time with the child on 20 May 2015 as the father's solicitors had informed her that the child was booked to see his allergist and he (the father) did not want her to attend.^[191] She said she next saw the child on 24 May 2015, at which time he had not seen her for seven days.

10 June 2015: the child starts counselling at Working Against Violence Support Services (WAVSS)

232. The child commenced counselling at WAVSS on 10 June 2015. According to the mother, he attended weekly therapy sessions; she said his therapist recommended that, to assist with his transition to school, he continue to attend intensively until he commenced school.^[192] It is accepted that the child ceased attending WAVSS when his father retained him in his care in late September 2015.

18 June 2015: Mr FG (speech pathologist) provides Review Summary about the child

233. Mr FG, a speech pathologist, provided a review summary for the child on 18 June 2015.^[193] A previous Progress Summary noted that the child had attended on Mr FG for an assessment on 16 January 2014 and had then seen him for two therapy sessions (on 5 February 2014 and 12 February 2014).^[194]
234. Mr FG reported that the child had previously demonstrated high levels of anxiety, which led him to be even more aware of his speech errors and caused him to lack confidence in his speech, which then caused him to be more anxious. He also noted that the child's anxiety levels tended to reduce when he was around his mother.
235. Mr FG noted that the child had improved in speech sound production, but still had a tendency to retract his tongue during speech, a behaviour which became more obvious when his anxiety levels rose. He recommended that the child receive ongoing support for his speech development from adults around him.

25 June 2015: the mother alleges that the father spoke about Court proceedings in the child's presence

236. The mother said that, at changeover on 25 June 2015, the father spoke about Court proceedings in the child's presence. She said he threatened to not come to changeovers until she did what he wanted.^[195] However, she also said that the father made the child available to her on 29 June 2015, despite his threats to withhold him from her.

7 July 2015: the mother obtains a referral for the child to Dr GH

237. The mother consulted Dr CD on 7 July 2015. At her request, he referred the child to Dr GH, a child and adolescent psychiatrist. According to the notes of her consultation;^[196] "Mom has got concerns about possible Autistic disorder. Psychologist telling them his symptoms are result of trauma. Mom prefers to have a review and assessment by a psychiatrist as well. Has found one, needs a referral".

17 July 2015: the mother said she invited the father to attend the child's appointment with Dr GH

238. The mother said that, in correspondence dated 17 July 2015, she invited the father to be involved in the child's upcoming appointment with Dr GH, but she received no response.^[197]

22 July 2015: the mother alleges the father is aggressive to her at changeover

239. The mother said that, when she arrived for changeover on 22 July 2015, the father shouted at her aggressively and approached her as she left her car. She said she approached the child, who was waiting at the entrance with his boxes;^[198] because the father continued to shout, she took the child into the bathroom because she felt this was the only way she could avoid the father. However, when she and the child left the bathroom, she discovered that the father had taken the child's boxes with him when he left. She said that the child had an emotional attachment to these boxes.^[199]

July 2015: the mother alleges the child suffers a black eye

240. The mother asserted that the father caused the child to suffer a black eye in about July 2015. She said that, when she asked the child at a changeover how he had hurt his eye (the injury she described was being "quite minor"; a scratch at the corner of his eye and a small bruise), he told her that this happened when he was hit by his father; he said that, in the process of hitting him on the bottom, the father got his eye; whilst she reported it to police, she said they told her that the extent of the injuries were not sufficient for them to get involved. In addition, the child saw a doctor that day. There is nothing in the evidence to suggest that that person (a mandatory reporter) made any notification to the Department.

2 August 2015: the father and the child approach a dog at changeover

241. The mother said that, during a changeover on 2 August 2015, the father led the child towards a puppy which was outside the McDonald's. She said she saw the child touch the dog briefly; she also said that she saw the father move the child's hand towards the puppy.[200]
242. The mother said she had not seen the child experience asthma-like symptoms (such as coughing, itchiness and sneezing) as a direct result of coming into contact with dogs.[201]

20 August 2015: the child sees Dr HI (an allergist)

243. The mother said that, when the child saw Dr HI (an allergist) on 20 August 2015, his allergies to dogs were no longer present.[202] She said the doctor told her that the previous test (which was a positive allergy to dogs) may have been a false positive. The mother said she informed the father of this on 21 August 2015, and followed this up again on 31 August to tell him that the child was not allergic to dogs;[203] further, results were sent to the father on 20 October 2015.

6 September 2015:

244. The mother says she wrote to the father six times between May 2015 and October 2015[204] to ask that he tell her his preferences for the child's schooling; however he did not respond.[205] The mother was informed by the father's sister, Ms S, at changeover on 6 September 2015 that the child was enrolled at IJ School.[206] In order to reduce the conflict with the father, and having attended the school, the mother said she accepted his choice and will continue to as she does not want to disrupt the child's schooling.[207]

17 September 2015: the child attends on Dr GH (child and adolescent psychiatrist)

245. The mother took the child to see Dr GH on 17 September 2015. She said she did so after the JK Group psychologist/s (upon whom he had attended since April 2015) recommended this to the mother in a group therapy session in July 2015.[208] It is not entirely clear whether this recommendation followed the mother's reported observations that the child lost concentration for periods of time, had a poor sitting posture and difficulty sitting still, leant on her when walking and standing, obsessed over particular things (such as returning library books, the time, pens and pencils), had poor balance, overreacted when minor things went wrong, was unable to start or finish some tasks without verbal reminders and had difficulty with noisy and busy places.[209]
246. The mother said Dr GH met with the child and also reviewed a number of reports about the child from JK Group, Working Against Violence Support Services (WAVSS) and his speech therapist (Mr FG).[210]

24 September 2015: the child's last time with his mother until 9 February 2016

247. The mother said the father withheld the child was from 27 September 2015. Consequently, their last time together (until early February 2016) likely occurred on Thursday 24 September 2015.[211] She said this happened because the father made a unilateral decision to withhold the child from her. She also said that she thought she could not contact the father directly because he had a "no contact" domestic violence order after applying to vary the order made on 23 April 2015.[212]

30 September 2015: the father proposes the child's dog attends changeover

248. The mother said that, on 30 September 2015, the father proposed that she bring her dog to changeover so he could take the dog with him when the child was spending time with her.[213] She said she found this an unusual request, because the father had previously alleged that the child was allergic to dogs.
249. During his cross-examination, the father agreed he proposed this: he explained that, if he had the dog, the child could have gone to the mother's home because there would not have been a dog there then. He said that the dog would have been kept outside at his home. He said he was not concerned that the child would go back to a place where a dog had been; he said it would not have worried him if the dog had been outside of his home when the child returned there.

30 September 2015: the father's solicitors advice of the father's decision to withhold the child

250. In correspondence dated 30 September 2015, the father's solicitors informed the mother's solicitors that the father had genuine concerns the child was still coming into contact with dogs at the mother's house, and more specifically, that she had retained the dogs notwithstanding that, during the trial she said that she would be getting rid of them. Reference was also made to an aspect of the Judgment delivered 27 August 2015 where it was noted that there would be orders to ensure that both parents avoided bringing the child into contact with dogs, as that was clearly in his best interests. The correspondence also asked that the mother confirm, as a matter of urgency, that no dogs were kept in or around her premises. It advised that, on receipt of this written confirmation, the father would make the child available in accordance with the Court order.

1 October 2015: the mother learns of correspondence advising of the father's decision to withhold the child

251. The mother attended for changeover on 1 October 2015. The father and the child did not. She also said that her solicitors told her that day that they had received correspondence from the father in which he said he intended to withhold the child and prevent him from spending time with her until she removed her dogs.
252. Ms W said that, after she emailed the father, he responded by email on 11 October 2015 to say: "if she wants it to end 50/50 week about and property split the same way will end it for good".[214]

27 October 2015: Dr GH provides a report about the child

253. On 27 October 2015, Dr GH produced a letter in which he certified that he had assessed the child with his mother. He said that, on the basis of his observations and the reported history, he was of the opinion that the child met the criteria for autism spectrum disorder according to the criteria in the DSM V.[215] According to the mother, Dr GH also advised that the child may also suffer from anxiety, in addition to autism spectrum disorder.[216]
254. The father contested the claim that the child has autism; he said he did so based on a report prepared by Mr KL, a psychologist, and Ms LM, an occupational therapist.[217]

7 December 2015: the mother provides the father with correspondence from Dr MN

255. The mother said that, on 7 December 2015, she provided the father with a letter from Dr MN which confirmed that the child had no allergy to dogs.

7 December 2015: Ms AB (educational and developmental psychologist) provides a report about the child

256. On 7 December 2015, Ms AB provided a Cognitive Assessment Report about the child. She did so after first engaging with him for this purpose in about April 2015. It seems she had been asked to provide psychological advice to contribute to an assessment of his needs; she was asked by Ms BC (a child psychotherapist) to document his functioning. Ms BC reported that the child had started to display signs of depression and anxiety during sessions and that changes in his behaviours was a reason for further assessment by a psychologist.

257. Ms AB's report[218] lists a number of "stakeholders": whilst these include the mother, Ms EF (a family friend) and "Ms NO" (the child's teacher), the father is not listed. It seems that Ms AB gathered background information from these "stakeholders". Ms AB recommended that the child continue to meet with Ms BC and that the "stakeholders" continue to meet to discuss methods to support his transition to school. The report also records that the mother then sought that the child be assessed by an endorsed paediatric psychiatrist.

16 December 2015: the mother keeps her dogs out of the house

258. The mother said that, on 16 December 2015, she wrote to the father's solicitors to say that, until the issue about the child's interactions with dogs was concerned, she would keep her dogs away from the house in a secure dog run or, if that was not adequate from the father's perspective, would have her friends take care of them away from her property.[219]

259. During his cross-examination, the father said that he did not recall this correspondence; he said he had never seen it and rejected the contention that he had ignored the mother's offer and continued to withhold the child from her.

19 December 2015: the mother speaks to the child over the telephone

260. The mother spoke to the child by telephone on 19 December 2015 and 25 December 2015. This communication was facilitated by Ms S.[220]

22 December 2015: the child attends on Mr KL (a psychologist)

261. At the father's request, the child was assessed by Mr KL, a psychologist, on 22 December 2015. Mr KL's report indicates that the father requested an intellectual assessment to determine whether the child may be gifted. The father did not tell the mother that the child was to be assessed by Mr KL. According to the report, the father also raised with Mr KL (after his assessment was complete) whether the child showed signs along the autism spectrum because he said there was a dispute about this issue.[221]

262. Mr KL noted that he did not observe the child to demonstrate behaviours that would be suggestive of autism during his assessment. He thought the child's behavioural problems appeared to be related to his application and attention.[222] Mr KL also concluded that, on his assessment, there did not appear to be a strong indication of autism; however, he also noted that this could not be a strong conclusion because of the limited results.

263. Mr KL did not recommend a "whole grade" acceleration for the child; he noted that, whilst he was bright, his overall abilities were not high enough to recommend such an intervention.[223] He also recommended that there be a follow-up assessment of the child's visual motor integration skills.

25 December 2015: the mother speaks to the child over the telephone

264. The mother spoke to the child by telephone on 25 December 2015. This communication was facilitated by Ms S.[224]

Early 2016: the father enrolls the child in Prep

265. When the child began Prep in 2016 at IJ School, this decision was also made unilaterally by the father. At the trial, the father said the mother should be excluded from contributing towards and making decisions about the child's education because the child is not attending school in the mother's care.

4 January 2016: the mother speaks to the child over the telephone

266. The mother spoke to the child by telephone on 4 January 2016. This communication was facilitated by the paternal grandmother.[225]

22 January 2016: Dr HI (allergist) corresponds

267. In correspondence dated 22 January 2016, Dr HI reported that, on 20 August 2015, the child had a negative skin prick test for common and suspected inhalant allergens. He said that, in the absence of identified allergens, the child's nasal symptoms were consistent with idiopathic rhinitis. He also said that "specific trigger avoidance measures" were not required.[226] As I understand it, this meant that there was no necessity to ensure that the child did not come into contact with dogs.

23 January 2016: the mother spends time with the child at Bunnings

268. The mother said that, on 23 January 2016, she bumped into the father and the child at Bunnings.[227] The father allowed the child to spend some time with her in the store, but only within his sight.

269. I accept that, once school started at the end of January 2016, she attended there each day in an attempt to collect the child and take him into her care. I also accept that the father refused to allow this to happen. His account is that he intimidated her by standing over her and told her and the child that the child was not allowed to go home with her.[228]

270. The mother's view about the father's actions in preventing the child from spending time with her between September 2015 and February 2016 is that it had nothing to do with his asserted concern that the child was being exposed to dogs whilst in her care; she said he withheld the child so that she would accede to his demands.[229] She relied, in particular, on the father's actions in urging her to settle with him on 24 January 2016 (in front of the child at McDonald's Suburb RR) and on 28 January 2016 (as she was leaving the car park at the child's school) and on his comments to Ms W and Ms S's (the father's sister) comments to Ms W as the basis for this view.

28 January 2016: involvement of Ms LM (occupational therapist) begins

271. The mother said that, after a discussion about the child's occupational therapy needs, Ms OP, a special education teacher at IJ School recommended, on 28 January 2016, that she contact Ms LM, an occupational therapist.[230]

272. Ms LM told the mother that Autism Queensland could assist with the funding of her services. However, when Autism Queensland contacted the father to discuss the funding for the child's occupational therapy, he denied that the child had autism spectrum disorder; he disagreed with the application for funding of the child's therapy.[231] The mother said that, as a result of the father's approach, the child was excluded from obtaining government funding to pay for occupational therapy.

5 February 2016: the mother speaks with the school

273. The school records indicate that, on 5 February 2016, the mother met with the deputy principal and principal to advise she contemplated trying to take the child home from school the following Tuesday as it was her right pursuant to the operative parenting orders.[232] The notes record that the mother was advised that it was in the child's best interests not to have any conflict happening at the school.

8 February 2016: the father and paternal grandmother meet with the child's school

274. On 8 February 2016, the father and paternal grandmother asked to meet with teachers at the child's school to discuss his diagnosis of ASD.[233] The father made it clear that he did not agree with it. According to the school records of that meeting, they said they believed the mother had Munchhausen's by proxy Syndrome; they said she continually said the child had illnesses, an assertion which the father disputed. It seems the father

told the school that the child had not been returned to his mother's care in accordance with the operative Court orders because he was allergic to dogs; he said the mother had been ordered to get rid of her dogs before the child lived at her home but, as this had not happened, he was not going to let the child live at her home.[234]

9 February 2016: the mother collected the child from school

275. The mother collected the child from school on 9 February 2016: as she described it to Mr O in February 2017, she 'recovered the child' that day. She said that, when the father realised that she was leaving with the child, he ran after her and shouted that he was going to send the police to come and get her.[235]

11 March 2016: the child sees Dr PQ

276. On 11 March 2016, the child saw Dr CD, who referred him to Dr YY at QR Hospital for a comprehensive developmental assessment.[236] In his referral letter, he outlined that the child's current medications included Prednisolone, which was taken daily with food. The father said he found it "alarming" that the child was still prescribed this medication.[237]

277. During his cross-examination, he said that he withheld the child from spending time with his mother because of the presence of dogs and also because she was giving him Prednisolone to prevent the croup that he said Dr UU had told him was being caused by the child's allergy to dogs.

11 April 2016: the father's Application to vary the Domestic Violence Order is to be heard

278. The mother said that the father's application to vary the protection order he had was set for hearing on 11 April 2016; however, the father failed to attend and his application and the temporary protection order were dismissed.[238] It seems the father unsuccessfully sought to have the matter reopened on 28 April 2016.

14 April 2016: disagreement about time with the child

279. The mother said that, on 14 April 2016, both parents attended at the school. This was because they disagreed about which of them was to have the child on the first weekend after school resumed after the school holidays.[239]

280. The mother said the father shouted aggressively at her, went to the child, grabbed him, put him over his shoulder and removed him from the class. She said the child called out for her and cried. She also said that, when the child returned to her care on 19 April 2016, he said he was worried he would not see her again.[240] The father did not deal with these assertions in his affidavits.

3 May 2016: the child saw Dr WW (a paediatric respiratory physician)

281. The mother took the child to see Dr WW, a paediatric respiratory physician on 3 May 2016 to obtain a second opinion about his recurrent episodes of cough and croup.[241] According to Dr WW's notes, the child had been reviewed by both Dr VV and Dr XX in the periods 2014 – 2015 and, reportedly, no clear-cut diagnosis had been made.

282. Dr WW noted that the child was reported to have recurrent episodes of viral triggered bronchitis (which involved him presenting with a moist cough and which were more frequent during the winter months); further, antibiotics were often commenced if the moist cough persisted after two weeks. She also recorded that, over the last 12 months, the child had four episodes of croup (with inspiratory stridor only occurring at night); she noted that, each of these illnesses saw him receive three to five days of oral prednisolone. The doctor also noted that the child had not had a croup episode that year, despite suffering from several viral illnesses.

283. Dr WW opined that the child's symptoms were a mixed picture of possible asthma or persistent bacterial bronchitis. She thought that the features which suggested asthma include the presence of atopic features (eczema and hay fever) and his positive family history. She also thought he had features which were consistent with recurrent episodes of bacterial bronchitis (as indicated by the moist cough, intermittent crackles heard in the chest and the child's response to antibiotics). She also said it was possible that these two conditions co-exist.

284. The doctor noted that the mother told her that the child had previously taken Singulair (first at 18 months old), which she thought was effective, but this ceased after separation when the father became his primary carer; she also reported that he had another trial of Singulair (which ended in November 2014) but it was unclear whether this was effective as the mother reported inconsistent dosing between the parents. Dr WW recommended a retrial of Singulair daily in the hope that it may treat the child's underlying asthma and hay fever.

285. When cross-examined about her motivation in obtaining a referral for the child to see Dr WW rather than return to see Dr XX, the mother explained that she did this because she was not happy with Dr XX's treatment approach – she said it was not because she disagreed with his diagnosis. When the mother was first asked whether she discussed her views with the father, she said she wrote to him; however, it was clear that she did not tell him that she was not going to see Dr XX again and she did not tell him about the referral to Dr WW. She said that her specific reason for not telling the father about the appointment with Dr WW was so that the child could see the doctor and receive care as there had been other occasions (when she had told the father of her intention to have the child attend on a medical practitioner) where he had restricted her ability to have the child receive medical care.

286. When asked, the mother said that she did not have any concerns about Dr WW's diagnoses about, or her treatment of, the child.

9 June 2016: involvement of Ms LM, occupational therapist

287. Ms LM attended the child's school on 9 June 2016 to observe and assess him in the classroom; she also spoke with his Prep teacher (Ms OP). According to the school records, the mother said the father did not object to Ms LM attending at the school.[242] Ms LM identified that the child required support in attention and emotional regulation.[243] According to the mother, she also commented that the child displayed a number of sensory and anxiety behaviours that were different to his peers; apparently, these observations correlated with some of the information the mother had received from the child's teacher: from the mother's perspective, these observations suggested the child presented with a mixture of anxiety and autistic behaviours.[244]

288. The mother said that, after Ms LM's report was received, she organised for Ms LM and Ms OP to meet to discuss what follow-up was necessary; she also said that she invited the father to attend this meeting, but received no reply from him. During his cross-examination, the father's criticism of the mother's approach appeared to be that, despite him challenging her acceptance of a diagnosis that the child had autism and despite him offering to pay for the child to attend counselling for anxiety (in order to prevent him being diagnosed – or, I suspect, associated in any way with the concept of autism), the mother continued to suggest that they approach Autism Queensland for assistance in meeting the costs of the child's treatment for anxiety.

289. The mother also said that, as a result of the child being diagnosed as manifesting autistic behaviours, she consulted with a Ms ST (a special education teacher) with whom she completed further education courses; she obtained and purchased educational material from various organisations and literature about autism spectrum disorder so that she could help the child; and she also attended a two day course run by the WX Centre at TU University for the parents of children with ASD.[245]

17 July 2016: the child is referred to Dr VW, specialist paediatrician

290. The mother said that, on 17 July 2016, she obtained a referral from (or through) Dr UV of the WX Centre for the child to see Dr VW, a specialist paediatrician.[246] However, it is unclear whether the child in fact saw Dr VW.

291. The mother did a two day course held on 14 and 15 July 2016 by the WX Centre at TU University for parents of children with ASD.

2 August 2016: the Full Court hears the matter

292. On 2 August 2016, the Full Court allowed each party's appeal by consent. The Court remitted the matter for rehearing and, pending further order, made orders in terms of those previously made by Judge Howard on 18 December as amended on 21 December 2015. This meant that the operative orders were that the parents have equal shared parental responsibility, that the child live with his mother and spend time with his father each alternate weekend from after school on Thursday until the commencement of school on Tuesday and for half of each school holiday period.

293. When the matter came before Judge Baumann (as his Honour then was) on 1 September 2016, he discharged the order that required the parents to do all necessary things to ensure the child was not brought into contact with dogs and transferred the matter to this Court. At the request of the Independent Children's Lawyer, his Honour restrained the parents from taking the child for any further assessments or treatments with any medical practitioner or allied health professional, unless it was a medical emergency, agreed between the parents in writing or as directed by the Independent Children's Lawyer or ordered by the Court.

2016: the mother does not see the child for his birthday

294. The mother said that, despite previously agreeing that she spend time with the child in the morning on his birthday, the father then refused to allow her to see the child that day. She said the father told her that, as the child's "step-brother" (Y – Ms V's son) had stayed to play with the child, she could not pick him up that morning; instead, he offered that she spend some time with the child at the school fete, at which he was going to be present also: given this, the mother did not see the child on his birthday as she did not want to spend time with him in the father's presence.[247]

December 2016: the mother acts contrary to the restraint preventing her from taking the child to see a therapist without consent

295. During his cross-examination, the father said that the mother breached the order made on 1 September 2016 when she took the child to see Ms BC. The mother said the child started to see Ms BC in around December 2016: he had three sessions, but these ceased when she was told by Ms BC that the father had said he would take legal action against the service if she did not stop seeing the child.[248]

7 December 2016: mother attends on Dr P (psychiatrist)

296. The mother attended on Dr P on 7 December 2016 at the request of the Independent Children's Lawyer. Dr P outlined that "there is no doubt that (the mother) suffers from a psychiatric condition". He said her condition was one marked by chronic anxiety and depressive symptoms; he considered she presented with major depressive disorder which he explained involved a pattern of chronic anxiety and depressive symptoms, present over a period of some years and most certainly since the onset of severe interpersonal relationship conflict with the father after the child's birth in 2010.

297. Dr P said that the impact of a continual exposure to significant degrees of conflict and acrimony for a person suffering from a major depressive disorder with features of chronic anxiety would be a very serious risk factor for the exacerbation and maintenance of that medical condition; the same would mitigate against the resolution of the condition and risks.

298. Dr P also said that the mother presented with a psychiatric disorder of sufficient severity that it increased the risk of her not being able to parent the child to a satisfactory standard. He opined that her chronic physical medical conditions, chronic anxiety and depression created "a distraction"; they sapped energy from the task of focusing on parenting functions, with the consequence that her parenting style was over-zealous: he thought it likely that she over thought things, engaged in too much checking of the child and attended more visits to health providers "just in case".

299. Dr P opined that the mother needed treatment for a psychiatric disorder; he thought that psychotropic medications of some sort needed to be part of a treatment plan for two years. He also thought that the mother's future prognosis depended on whether she could come to terms with the events since the 2013 separation and whether she could embrace a parenting plan that was more aligned with a plan that is in the child's best interests.

300. During his evidence at the trial, Dr P explained that the fundamental problem for the mother was the chronic anxiety from which he assessed her to suffer meant that she experienced a fear about the potential that things in the future may be negative or go wrong. He said that, because of the nature of the depression he also assessed her to suffer, there was a risk she could become preoccupied with past troubles or stresses or problems. Dr P opined that the combination of the mother's depressive and anxiety symptoms could increase the risk that she might be distracted from a focus on her parenting function; further, her anxiety symptoms and her depressive symptoms could influence her parenting in a way that may not be best for the child. In particular, given her concerns about the child's health, this may result in an impact on the accuracy of her appraisal of the nature and/or severity of symptoms he may manifest or might, as I understood it, result in her having increased concerns about his health or issues associated with this.

301. Dr P opined that the likelihood this risk might eventuate fluctuated, depending on many factors which included: the mother's health, the child's health, the stresses of life, the amount of conflict with the father, access to therapy and the nature and quality of such therapy. He said that, based on the interview he conducted on 7 December 2016, the risk of the mother being distracted from a focus on the parenting function and that her anxiety symptoms and her depressive symptoms might influence her parenting of the child in a way that may not be best for him was in the "low range"; he said that, without treatment, this risk would likely increase to moderate to severe.

8 December 2016: father attends on Dr P (psychiatrist)

302. On 8 December 2016, the father attended on Dr P (a psychiatrist) at the request of the Independent Children's Lawyer. After interviewing the father, Dr P considered that he did not present with a history of symptoms which were indicative of the presence of a diagnosable psychiatric illness; he also reported that the father's mental state examination was normal; he did not present with a psychiatric disorder of sufficient severity to increase the risk of him not being able to parent the child to a satisfactory standard.[249] In so far as a future prognosis was concerned, Dr P opined that future events depended on whether the father could come to terms with the events which had happened after the parental separation in 2013 and whether he could embrace a parenting plan that was more aligned with a plan that is in the child's best interests.

January 2017: allegation that the father lifted X up by grabbing his hair

303. Mr Z said[250] that, around the beginning of 2017 when Y and X returned to his care, X seemed upset and told him that the father had lifted him off the ground by his hair.

304. Ms V said[251] that she had heard the child scream in his room; the father went down the hall and saw X pull the child across the floor by his hair; X shot out of the room past the father, and down the hall past her; the father chased him, saying "I'm going to pull that little bugger's hair."; she stepped in the way, waved her arms up and down and told the father "no, no". She said the father did not pull X's hair. She also said that it suited X to grossly exaggerate the event "for the purposes of attention" when he spoke to his father about it.

305. During her cross-examination, Ms V confirmed that she had not seen X pull the child by the hair but had been told that later; she saw X run past her down the hall (“shoot past”) and she stepped in to prevent the father from catching X. When asked whether she acted as she did because she thought he was angry with X, she said “frustrated perhaps”; she said that the father had said he was going to pull X’s hair and was advancing down the hallway and so she had just stood up to bring the incident to an end. She said she had never seen the father pick X up by the hair but had seen him smack him: she could only recall the “cricket bat” incident; she denied smacking X and said that she did not smack.

24 January 2017: the child attends on Dr Q (a paediatrician)[252]

306. The Independent Children’s Lawyer had asked Dr Q, a paediatrician, to assess the child in relation to a possible diagnosis of autism spectrum disorder (ASD) and he saw the child with both parents on 24 January 2017.

307. Dr Q was asked to assess the child’s academic and learning progress and his behaviour and socialisation. He found that, academically, the child was doing well at school and there were no particular academic concerns.[253]

308. Dr Q reported that both parents had identified that the child had some particular issues with anxiety[254] and emotional regulation; however, they disagreed about the extent of the problem and, consequently, they also disagreed about how best to manage and parent around this. Dr Q thought they recognised their differing parenting approaches and the extent to which these may modify the child’s behaviour.

309. Dr Q noted that, from the mother’s perspective, the child’s anxiety manifested at day care (where she said his play with other children was limited and his stammer worsened); she thought he engaged in “comfort behaviours” which included biting or chewing on objects and sometimes skin-picking (although she said these behaviours were then less apparent than had previously been the case); she also thought that the child was inconsistent in identifying emotions in others and she was uncertain about his degree of empathy.

310. Dr Q also noted that both parents reported that the child was easily angered and had some difficulties regulating his emotions when he did not get his way: he would often withdraw or adopt infantile behaviour or speech. Dr Q said some of this behaviour was demonstrated to him.

311. Dr Q observed the child with both parents. He noted that, when the child entered the room, he often sought to embrace his mother; his initial response to enquiries was to ignoring the same and to seek reassurance from his mother, although over time he corrected aspects of her responses to questions with which he did not agree. Dr Q noted that whilst the child often sought reassurance from his mother, this behaviour was less apparent when he was relocated to sit next to his father.

312. Having observed the child, Dr Q did not support a diagnosis of ASD. He thought that, whilst the child displayed several features which were shared in children with ASD, he did not manifest the core features of ASD: rather, he appeared as a socially motivated and warm young man. Dr Q considered that the child’s degree of dysfunction was not to the extent that he met the autism criteria. In saying this, though, he also said he could understand why others had diagnosed the child as having ASD.

313. Dr Q agreed that the child had significant challenges in his day to day life and required extra assistance. He opined that the child’s “deficits” were best explained by his anxiety and poor resilience: this limited his capacity for social engagement and left him prone to emotional outbursts. Dr Q also concluded that a further contributing factor was the different parenting styles and the conflict to which the child had been party.

314. Dr Q concluded that he thought the child was a child who was at risk and who found the world distressing some of the time. Given this, Dr Q considered that what was important for the child was that he had a cohesive team of people around him: by this he meant that everyone involved in his parenting should use the same approach, because the child needed that consistency and reliability so as to be able to function and flourish for the future.

315. Dr Q outlined that he was very concerned for the child if he was not afforded the opportunity of the consistency and reliability he spoke of; in particular, he mentioned that, in his twenty-five years as a paediatrician, he had never seen a situation that a child of the child’s age (then six years) still used a bottle (let alone one which had to be of a certain temperature) to calm himself at night; he considered this indicated that the child was a child who had a very high stress and anxiety level. Dr Q noted that, despite there being a lot of interventions over the years, the child was still in a parlous state: where there was clear tension between his parents about what his diagnosis was and how he was to be managed, an absence of consistency would mean he would be prevented from successfully developing the normal emotional regulation which should have occurred by then.

316. The mother said she was prepared to follow Dr Q’s recommendations and to continue to work with any experts to support the child in every way.[255] The father’s focus, at least in his affidavit material, was to emphasise that the mother had admitted to Dr Q that, in December 2016 and January 2017, she had breached the order which prevented both parents from taking the child for any further assessments or treatments with any medical practitioners or allied health professional unless it was a medical emergency. During his cross-examination at the trial, he appeared to focus on what he said was the mother’s challenge to Dr Q’s conclusion that the child does not have autism as a basis for his position that he should be afforded sole parental responsibility for decisions about the child’s health.

9 February 2017: the parties attend Mr O for interviews for the third Family Report

317. The child was nearly six and a half at the time of his third interview with Mr O. He continued to live with his mother for nine nights each fortnight and to live with his father (and Ms V and her children, X and Y) for five nights each fortnight.

318. Mr O noted that, the mother’s position was that she wanted to be able to relocate the child to live with her in the United Kingdom. In contrast, the father sought an order for sole parental responsibility, that the child live with him and spend only supervised time with his mother. Despite this, during his interview with Mr O, the father proposed that the child live with each parent in an equal time shared parenting regime (week about) and that he have an order for sole parental responsibility with respect to decisions around medical issues and attendances at medical appointments.[256]

319. The father expressed to Mr O that he appreciated the comments made to him at Court around the need for the parents to develop a more effective co-parenting relationship and reduce their conflict, saying that the order that compelled the parents to reach joint decisions about medical issues had been particularly beneficial in actually forcing the parents to communicate; he thought this a good thing in terms of enhancing their communication. [257] He told Mr O he was optimistic about their ability to improve the co-parenting relationship in the future and said “I think with 7:7 we’ll get there”.[258]

320. Mr O considered that the mother’s focus at interview tended to be more upon the problems that had arisen whereas the father appeared more solution-focused.[259] Mr O thought the father’s presentation was more suggestive of a willingness to adopt a more positive co-parenting style than the presentation of the mother.

321. Whilst Mr O noted that the father and Ms V seemed to have a more calming influence on the child, he also considered that both parents had likely acquiesced to the child’s demands and/or reported obsessions over the years.[260] Having observed each parents’ interactions with the child, Mr O considered that both provided appropriate “scaffolding” and support; although he thought the father and Ms V appeared somewhat more confident in their interactions with the child than the mother.[261]

322. Mr O recommended, in his report, that if the psychiatric evidence about the mother was accepted, it would be particularly important for her to acknowledge the concerns about her parenting which were associated with her anxiety and for her to convincingly display a willingness and commitment to overcome those concerns.[262]

323. Mr O also said in his report that, if this did not occur, in all likelihood there would be “more of the same” in terms of concerns around the child’s health and other issues in the future and this may result in more parental disagreement or conflict.[263] Mr O said that, if the Court believed that this was likely to occur, it would be advisable for the child to live with his father for the majority of the time and to spend only alternate weekends with his mother.[264]
324. Mr O said that, given the presentations of the parties at interview, he had greater confidence that the father was more capable of being able to adopt a more co-operative parenting attitude into the future.[265] He said that, as the mother’s focus during the interview was on detailing her concerns, he did not really have the opportunity to question her at length about her adopting a more co-operative stance. He also expressed the opinion[266] that, if the Court accepted Dr P’s evidence about the mother, it would suggest that there should be no favouring of her in any time arrangements: that is, the child should not live for more time with her than with the father; he also raised whether, if the evidence was accepted, the child should spend equal or even significant and substantial time with his mother.
325. During his cross-examination, it appeared that, in arriving at this opinion, Mr O had relied in particular upon Dr P’s assessment that the mother posed a risk to the child by virtue of her functioning consequent upon the major depressive illness and anxiety with which he had diagnosed her. He said (in essence and as I understood the thrust of his evidence in this respect) that, if the Court found that the mother posed a high or unacceptable risk to the child, then it would be necessary to consider whether it would be in the child’s best interests for him to spend equal or even significant and substantial time with his mother.
326. Mr O also said, during his cross-examination, that in expressing his opinions he had taken from Dr P’s report that Dr P said the mother posed a risk to the child because of a psychiatric condition which manifested as anxiety and, at times, depressed mood; he then noted that he had learned that Dr P considered the risk to be low if the mother engaged in appropriate treatment and accepted that, in arriving at the opinions he expressed in his report, he had proceeded on the basis that the risk was a higher one than the ‘low’ risk of which Dr P had given evidence during his cross-examination (or at least that he was not himself clear about the magnitude of the risk about which Dr P had spoken in his report – which was clarified during his cross-examination to be a low risk if the mother engaged in appropriate treatment).
327. Mr O also explained that his opinion to the effect that ‘the mother ought not be favoured over the father’ (in terms of the time the child should spend with each parent) rested upon his assessment that the father had less regard to issues about the child’s health than the mother; he thought, from his reading of Dr P’s report, that part of the risk the mother was said to pose to the child arose because her anxiety meant it was likely she would amplify concerns about the child’s health and her concerns about the risk she asserted the father posed to the child.

6 April 2017: the mother sought an extension to the Domestic Violence Order

328. As a result of the mother’s application for an extension to the domestic violence order in her favour, on 6 April 2017, the operative domestic violence order was extended to 6 April 2022.[267] The mother said the father did not attend at the Court and she had contended that his behaviour towards her had not improved.

2 June 2017: the father did not make the child available for changeover

329. The father did not make the child available for changeover at the school on Friday, 3 June 2017, as he said the school holidays did not start until Sunday (5 June).[268] The mother collected the child on 5 June 2017 and he spent time with her during the holidays.

30 November 2017: the mother asks the father to agree to the child attending a course

330. The mother said that, on 30 November 2017, she sent the father a text to ask if he would agree to the child attending a course designed for children with anxiety over the holidays. She said that, when he replied on 7 December 2017, he told her that he did not think that the child should go to the course.[269]

6 January 2018: the father allegedly punches the child in the head

331. During the Christmas school holiday period, the child spent time with his father between 3 and 22 January 2018.[270] The father said that, on 4 January 2018, he, Ms V, the child, X, Y and various family members went camping for a week.[271]
332. On 6 January 2018, the family were wake-boarding and knee-boarding. The father, who did not provide a sworn account of events that day until 6 April 2018, said that they were on the boat when he leaned down to put the latch down (where the knee-board had come out from); the child pushed Y; Y came forward through the middle section of the boat to where the seats were, and banged his head into the father’s.[272] The father said he immediately stood up and faced the child and said “Stop” and put his arm out in a “stop sign” motion; he said that the palm of his hand came to rest on the child’s forehead. The father said the child did not cry, though he was angry at the father.[273]
333. Ms V (the father’s partner) said she had a clear view of what took place. She said the child pushed Y into the side of the boat and hurt Y.[274] At trial, she said the child shoved Y quite hard. She described that, in response, the father calmly said “Stop” and put his open palm up towards the child in a “stop sign” motion on his forehead. She said the child did not cry and did not speak of the incident to any of the adults on the boat. Her account does not include that Y banged his head into the father’s head.
334. Ms S (the father’s sister) was also on the boat at the time. She said she did not see the father punch the child.[275] She said the child did not approach her, her daughters, his paternal grandmother or Ms V (all of whom were on the boat at the time) to complain about being punched; she said there were no marks on the child to indicate that he had been struck.[276]
335. The paternal grandmother said she was unaware of any incident involving the child and his father. She said the child never mentioned any such incident to her.[277] The father’s cousins were also at there that weekend. Ms XY said that there was no violence to any member of the family at any time.[278] Mr XY said that he did not observe any violent behaviour on the weekend and there was no sign of physical harm evident on the child.[279]

21 January 2018: the police are called to the father’s residence

336. I think it particularly relevant to note that the father, Ms V and the paternal grandmother did not give any account of the events which occurred at the father and Ms V’s home on 21 January 2018 in any affidavit filed in the proceedings between 19 March 2018 (when I ordered that the matter be reopened) and 19 April 2018 (when the matter returned for further hearing before me). The father in fact accepted that the Court (and the mother) would not have known of it save for the information Mr Z provided to the mother after Y and X’s reports to him about that event.
337. It is also particularly relevant to record that each of them explained their respective failures to mention the fact of the police attending that day in the following ways: Ms V said she did not include any mention of this in her affidavit material because it was “such a minor incident”; the father said he did not include any mention of this incident in his affidavit material “because what has it got to do with my son?”; he also said he thought the Court was only dealing with the issue about the alleged boat incident and not every aspect of life and denied concealing the fact that police attended at his home from the Court; the paternal grandmother said she did not include the event in her affidavit as it “didn’t concern me directly” and she “didn’t get involved in any of that”. She denied that she was trying to conceal it from the Court because it might be adverse to the father’s case; she said, in essence, that when a person did their own affidavit, they did not always have the best idea of what to include in it.

338. According to the contents of the documents produced by the police[280] a triple zero call was made at 9.16 am; the female caller said she was being assaulted by a male occupant: when the call was answered, the female was yelling and the male and female were yelling at each other; the female said police were aware but were doing nothing about it; the male spoke with the recipient of the call and provided the incident address and said there was no assault and police were welcome to attend; the call was terminated before it was put through.
339. According to the “finalisation details” (recorded at 3.30 pm), when police took up with Ms V at the property, she told them that she had an argument with the father due to a relationship breakdown and that he was in the process of moving out. Police noted that there was no property damage and no injuries – at least according to her report. The incident was considered to be closed at 3.42 pm.
340. During her cross-examination, Ms V accepted she telephoned the police that day: she said she did so because she wanted them to help her with the father. As noted, according to the police records, when she called she said she was being assaulted by a male occupant [281] (I note there is no issue that the only adult male at the home at the time was Mr Rabkin). She accepted that she made that report. She accepted that she told the police that the father was assaulting her. However, when asked about her complaint during her cross-examination, Ms V said that, when she used the word “assault”, she meant “assault” in the sense that she was being bombarded by a lot of unpleasant events at the time; she also said the father had never physically or verbally assaulted her.
341. Ms V also said during her cross-examination that, on the day, the thought that she and the father might break up made her feel a ‘fear of abandonment’ and so she called the police. She said she did not ask them to attend or to come and help her; rather, she said she needed another outlet to talk to – and thought of the police.
342. Ms V said that the child had been behaving badly for the last week and a half of the school holiday time: he had been calling his father and X “arseholes”; he was also repeatedly pinching and taunting Y and had been very defiant and disrespectful to his father for some time. She said, in essence, that she had words with the father to the effect that if the child did not stop behaving as he had been, he would have to leave because it was not acceptable behaviour and the father had tried everything to make him behave. She said the father told her that “If the child leaves, I will leave too”. She also said their argument involved the use of raised voices.
343. The father said the argument between him and Ms V arose because Ms V was upset about the amount of telephone contact between the child and his mother, the fact that the child had been calling him and X an ‘arsehole’ and had been caught pinching Y – he said she was fed up with it, was upset and had had enough. He also said she was upset because he was not doing anything about the child hurting Y; he described what happened as them having a “tiff” and that ‘people do these things’. He said that, when he spoke to Ms V later, about her actions in calling the police, she said she had called them because she was sick to death of Y being punched by the child and of the child calling him (the father) and her son an ‘arsehole’.
344. It is agreed that, after the verbal argument, the father removed a bed frame from the shared house. It seems he did this because he owned it. According to Ms V, it was the bed frame for the bed X slept in. During his cross-examination, the father agreed that he moved the bed to the paternal grandmother’s home. He said he did so because of what he described as the “tiff” between them and because he was upset. He said he never intended to leave the home, although his actions in removing a piece of furniture certainly casts significant doubt on that assertion.
345. During her cross-examination, the paternal grandmother said the father contacted her to ask her if she collected the child; they met at her gate and she took the child home with her. She said the child told her that Ms V was upset but she did not ask him anything more about that as he did not want to discuss it with her. She said that the father brought a bed with him on one of the two occasions he attended at her home that day; she said he told her that Ms V was upset and agitated and shouting and that he did not want the child at their home. She said the father did not tell her why Ms V was upset but just that she was upset and shouting, that they had been having a ‘row’ and that Ms V was ‘having a meltdown’. She said she did not ask the father any questions about what had been happening as it was none of her business and she did not want to get involved in ‘other people’s personal things’. She also said that the father told her the next day that the police had attended at his home.
346. I accept, as was submitted by Counsel for the mother, that the records produced under subpoena by the Queensland Police Service contain the only accurate version of what in fact took place that day. I also accept the submission that I should reject the version of events given by both Ms V and the father during their respective cross-examinations. I do not accept Ms V’s evidence as a credible explanation for her actions in calling “000” that day. I think it much more likely than not that, when she called the police, she did so because she was being assaulted by the father. I also consider that the tensions in their household had, by then, clearly reached the point where they had decided to end their relationship and that Mr Rabkin started to effect the same by removing the bed he had paid for from the house.
347. I also note that the account provided by the father to his mother did not include that he had contributed in any way to the events which preceded the police attendance: from his account, it was Ms V’s behaviour in having a ‘meltdown’ which was the problem and, inferentially at least, was the reason the police attended.

22 January 2018: the child returned to his mother’s care and complains of “the boat incident”

348. The mother said that, when he returned to her care on 22 January 2018, the child told her “daddy punched me in the head”. When she asked him what he meant, the child told her that “daddy had a fist and punched me in the side of the head when I was playing on the boat. I was playing with Y, it was an accident but Y fell onto dad and butted heads”; he then said: “Dad then punched me in the head”.[282] The mother said that the child told her this happened at the start of the holidays, that it hurt and he had cried.
349. In summary, the father’s account of the boat incident is that he held his hand up in a “stop sign motion” and touched the child’s forehead with it to stop him running through the passage on the boat between the seats; he denies punching the child in the head or pushing him in any way. The witnesses called in his case all say that they did not see the father punch the child in the head and did not hear the child cry or complain to them that day that he had been punched in the head by his father.
350. The paternal grandmother said she did not even know that the child had pushed Y that day or that the father had ‘corrected’ his behaviour. She said the child did not mention anything about this or like this to her. Given this, her evidence during her cross-examination to the effect that she did not see the father raise his hand toward the child (an action he accepted he made) is unsurprising. Her evidence does not corroborate the father’s version because she did not even see things that he said occurred (such as the child pushing Y, Y head clashing into him and him raising his hand toward the child).
351. Ms S (the father’s sister) said that she never saw the father punch the child and that the child did not approach her about being punched. She also said that she did not see the child push either Y or X; or Y or X have a head clash with the father or the father raise his hand toward the child. Whilst Ms S was adamant in her evidence that none of these things happened, given that they are all events that the father agreed happened that day, her evidence does not corroborate his account of the manner in which he reacted toward the child following the child’s actions in pushing Y, which caused Y to have a head clash with him and him to react.
352. During her cross-examination, Ms V said that, whilst she was on the boat, she saw the child push Y who fell into the side of the boat and started to cry; she went over to Y to comfort him; it looked to her like the child was potentially coming toward Y again when the father turned around and said ‘stop’ and put his hand out like a stop signal; his hand “landed” on the child’s forehead; she said she saw his hand come in to contact with the child’s forehead as the child moved forward into it; she could not recall what the child then said to the father and she could not recall if the father

reprimanded the child for his behaviour because she was concentrating on Y. She said that she was not aware of any other incident on the boat when Y was injured as a result of the child pushing him.

353. Despite having the opportunity before the appearance on 16 February 2018 to put his ‘version’ of the boat incident before the court, the father did not do so until he filed an affidavit on 6 April 2018. He accepted during cross-examination that, despite saying in his February 2018 affidavit that he did not know what the mother was referring to when she said the child complained to her about being punched in the head by his father whilst on the boat, he did in fact know what she was referring to. His only explanation for his failure to put his version of the ‘boat incident’ in evidence until 6 April 2018 was that ‘he should have’ – he said he made a mistake of judgement.
354. He accepted that, prior to filing the 6 April 2018, he knew he was being accused of punching the child in the head, said in his later affidavit (the April one) that there was nothing in the incident and had an account to provide about what he said happened – all of this was known to him when he filed his February 2018 affidavit: when asked why he did not then just include his explanation in his February 2018 affidavit, he said he ‘should have’; he also denied the suggestion that his delay arose because he was taking the time to think about a possible plausible explanation which could be provided to answer the comments the mother reported the child to have made or that he was taking the time to speak to others who were present and to determine how he was going to deal with the issue; he said he was only thinking about the Recovery Order application he had brought (which was supported by his February 2018 affidavit) and should have put his account into this document.
355. Whilst I retain suspicion that the father’s failure to address the mother’s evidence about the child’s comment to her that the father punched him in the head on the boat in his February 2018 affidavit allowed him to ensure that the version given by at least Ms V and the paternal grandmother accorded with his own, I am not persuaded to draw a positive conclusion to that effect.
356. I certainly think it highly likely that the father chose not to respond to the mother’s assertions about the boat incident because he concluded that silence about it was more favourable to his prospects of obtaining the Recovery Order that he sought: especially given that his February 2018 affidavit contained the false assertion that he did not know what she was referring to when she gave her evidence about what the child had said to her about the boat incident.
357. The mother said the child also told her on 22 January 2018, that, on the previous day (21 January 2018), when it was early in the morning and he was outside by himself on his quad bike and the other boys were inside the house, Ms V came outside screaming: she said she was going to kill him and that he was causing them (presumably she and the father) to split up. The mother said the child told her that Ms V was screaming at him: his father was holding onto her but she was hitting him and she threw something at the child. He also told her that his father took Ms V inside and then came out of the house and took him to his paternal grandmother’s house. The mother said the child told her that he had told his father to say sorry to Ms V; and his father said he would in the morning. He said that the next morning, his father and Ms V came to the paternal grandmother’s house; he said sorry and they told him that they were not splitting up now.
358. According to the mother, the father had previously told the child that it was his fault that they were splitting up.

Late January 2018: Mr Z (Y and X’s father) learns about the alleged boat incident

359. Mr Z said that, when Y and X returned to his care on 25 January 2018, X told him that he saw the child get his head pushed into a bar on the boat after he and Y were playing. Mr Z said Y told him that he had accidentally bumped the child, who then bumped into the father, who then pushed the child, who then hit his head on a metal bar on the boat.

Late January 2018: Mr Z (Y and X’s father) learns of the events of 21 January 2018

360. Mr Z said that, when X and Y came into his care in late January 2018, they told him the police had been called to the father and their mother’s home on Sunday, 21 January 2018.^[283] Mr Z said X told him that he and Y were made to go outside and he overheard his mother on the phone to police saying something about being abused. He also said that he saw that the laundry door had a big hole in it.^[284]
361. Ms V said she had never been abused by the father; she said he never put any hole in the back door. She said the door got wet and shrank from exposure to the weather and the lock would no longer engage.^[285] She was not cross-examined about the assertion that there was a hole in the door.
362. The father accepted that Y and X correctly told Mr Z that the police came to their house; that there had been an argument between him and their mother; and that some furniture had been removed from his house to his mother’s house. When challenged that they were also correct in telling their father there was a hole in the laundry door, the father said that there was a hole but this was from where he had removed the door handle. He explained that when he returned to the house later on the day the police attended, he removed the deadlock from the door so that he could put it onto a replacement door; however he said he did not replace it until he got a new door from Bunnings a couple of days later; he said the door had suffered damage over the years, that the locking system would not engage and that Ms V had been on at him for some time to fix it; he denied that he removed the lock so that he could not be locked out of his own home.

Late January 2018: Mr Z speaks to the mother

363. Mr Z approached the mother at the children’s school on 30 January 2018. She said he was worried about some things he had heard about behaviours in the father’s home, which included:
- a) a complaint by X at the beginning of 2017 that the father “had lifted him off of the ground by the hair”; and
 - b) that, in around mid-2017, X and Y started to complain to him that the child was grabbing their genitals and that, whilst he had raised this issue with their mother, the behaviour remained ongoing at late October 2017; and
 - c) that, on 28 November 2017, he and the father exchanged numerous text messages about the “theft” of clothes; and
 - d) that he and Ms V had argued at changeover on 29 December 2017 when he said he hoped she would not be leaving their children alone in the father’s care; and
 - e) the incident on 21 January 2018 when police attended at the home of the father and Ms V.
364. Ms V said that she believed that an email she sent to Mr Z on 12 January 2018 (in which she asked him to remove a tenant from his property, at which the police had attended and found drug paraphernalia) caused Mr Z to seek to “retaliate” against the father and the child.^[286]

31 January 2018: Mr Z texts the mother about the boat incident

365. The mother received a text message from Mr Z on 31 January 2018. In it he said that X and Y recalled an incident at the beginning of January at YZ Town where the child accidentally bumped into Y and the father reacted and hit the child’s head into a metal strip that goes around the boat window.^[287] They told their father that the child cried for about 20 minutes after; that they were just playing and the child accidentally bumped Y into the father.

31 January 2018: Mr Z makes a statement to police

366. Mr Z said that, on 31 January 2018, he made a statement to police in which he asserted that Y and X had told him that the father (Mr Rabkin) had been physically abusive toward them when they were in Ms V's (their mother's) care.[288]

1 February 2018: the mother provides a statement to police

367. The mother said that after Mr Z told her on 1 February 2018 that he had made a statement to police the day before, she contacted police and made a formal statement.[289]

368. According to the Solicitors Office Report Details, the mother told police that the incident occurred "whilst on a boat at a local dam"; she said that the child was playing with his step-brothers on the boat, a step-brother had fallen over by accident and had fallen onto the father who then punched the child in the head, causing him to cry for about half an hour.[290] The mother also outlined that the child had told her that, on 15 October 2017, the father hit him with a bat: she said that her recollection was that the child said his father continued to hit him; that at the time he was not sure what type of bat it was; that the father hit the child three times and that Ms V did not stop the father, but just shouted at him to stop.

6 – 15 February 2018: the child returns to the mother's care; he says he wants to die

369. The child spent time with his father from 1 to 6 February 2018. The mother said that, whilst he was reluctant to go to his father on 1 February 2018, she did her best to reassure and encourage him.[291] She said that, when he returned to her care on 6 February 2018, the child had nightmares, screamed and cried much of that night.[292] The father's evidence is that the child was in good spirits when he left his home on 6 February 2018. [293]

370. The mother said that, after the child returned to her care on 6 February 2018, he expressed a wish to die every day; she said he often tried to find sharp knives in the kitchen and said he was going to kill himself; he spoke about different ways of trying to kill himself including using duct tape to suffocate himself. She said the child told her that he was scared of his father because he hits him and he thought his father will kill him by accident one day; he also told her that every time his father raised his voice, he thought his father would hit him.[294]

371. The mother said that the child was still upset on 7 February 2018: he did not go to school, would not stop crying and would not tell her why he was crying other than to tell her that he was so sad and wanted to die. She said that this was the first time he told her how he wanted to die: he said he wanted to walk in front of a moving car and that he felt like going to the kitchen and getting a knife to use on himself.[295]

372. According to IJ School Absence Details,[296] the school received an SMS to advise that the child was experiencing severe anxiety and would be absent.

373. The mother also said that, at one stage, the child "almost begged (her) to kill him, saying he was too sad to live and he wanted (her) to die with him and asked (her) to kill (herself) if he died".[297] She said he would not tell her why he felt so sad.

374. The mother also said that the child had previously commented that he wanted to die: for example, in or around 2016, he told her that he did not want to live anymore and wished that someone who looked like him but was not him could stay with her.[298] She said that, in response to these comments, she contacted JK Group the following day; that organisation recommended that she contact "Ms AC", who was the child's previous psychotherapist who was working at the ZA Program. She did; the child was put on a waiting list and started sessions in around December 2016. The mother also said that the child had three sessions at the ZA Program before the organisation stopped them because she was told the father had said he would take legal action if they continued to see the child.[299]

375. The mother also recounted that, on returning home from his father's care on 6 February 2017, the child told her that he worried his father would kill him one day.[300]

376. The mother said that, on 12 February 2018, the child asked her not to die; when she asked him why he said that, he said "I think daddy is going to kill you"; "Well daddy hurts me and loves me, daddy hates you so I think he will kill you".[301]

377. The mother said that, the next day (13 February 2018), the child told her repeatedly that he would kill himself if she made him go to his father's home; he said "I know my dad is going to kill me by accident one day and I don't want to get hurt anymore and I will just kill myself if I have to see my dad again".[302] She called Kids Helpline after the child had gone to bed and they recommended that the child see his doctor and a psychologist as soon as possible.

14 February 2018: the child attends on Dr BD and the mother contacts Dr CE

378. The mother took the child to see Dr BD on 14 February 2018. She told the doctor about his comments since he returned to her care; she also reported that he was having toileting issues.[303] The mother said that the doctor told her that the child's issues were due to stress and should resolve with treatment from a psychologist.[304]

379. The mother contacted Dr CE (a clinical psychologist whom had been recommended to her) on 14 February 2018. The doctor had availability to see the child urgently the next day. The mother then emailed the father and the Independent Children's Lawyer to advise them of the child's disclosures and behaviour since his return to her care. She also advised that she was not prepared to send the child to his father's for the upcoming weekend. She sought the father's consent to take the child to see Dr CE.

14 February 2018: Mr Z takes Y and X to the police for interview

380. As a result of what he said they told him, Mr Z took X and Y to EE Central CPIU to be interviewed on 14 February 2018.[305] On his account, they had told him about an occasion in early 2017 when the father (Mr Rabkin) lifted X off the ground by his hair; that they had been hit by a cricket bat; about the police attendance at the father's home and about the boat incident in January 2018.

15 February 2018: the child is not available at school for collections by the father

381. The father said that, when the child was not available at school for changeover, he contacted the Independent Children's Lawyer, who then forwarded him the mother's email dated 14 February 2018. He said he did not believe that the mother had given him notice of her intention to have the child attend on Dr CE.

15 February 2018: the child attends Dr CE, clinical psychologist

382. The mother took the child to see Dr CE on 15 February 2018. According to the progress notes provided to the father and the Independent Children's Lawyer on 25 February 2018, the mother booked the appointment over the phone and was very distressed and concerned about the suicide risk for the child who she reported had been talking about taking his own life if he had to visit his father again; an emergency appointment was booked to assess and address this risk. It seems Dr CE suggested that she spend individual time with the child and with the mother: she noted that the child found this difficult initially, because he preferred to speak in his mother's presence.[306]

383. Dr CE recorded that, during their joint session, the child asked his mother several times: "If I die, will you die with me?" – to which the mother responded: "I will be heartbroken".

384. Dr CE did see the child alone for about 20 minutes. She noted that he told her that his father often shouted at him; that his father once hit him with a sports bat and had recently hit him with a fist. The doctor recorded that she and the child discussed how people deal with their anger differently; that people may sometimes lose control of their anger and how people might learn to control that anger. She noted that the child said he believed his father would not change ; he also said he was scared of his father.
385. Dr CE recorded that, when she asked him how he would organise his life if he had the power to decide, he told her that: “I still love my dad, I want to see him, but I don’t want him to hit me again”. He said he would only see his father again when he wanted to. When she asked him what ideas he might have to make sure he would be safe, the child said he would like to have someone there with him when he spends time with his father. He said he believed his father would still shout and hit him even if there were other paternal relatives in the house.
386. Dr CE noted that the child told her that he would like to go to heaven now because “life is too hard”; however, he also said “if mum can’t go with me then I won’t go”. She discussed with the child that wanting to go to heaven meant that he wanted things to be different and she also talked about how he could help make things different.
387. After she spent individual time with the child, Dr CE told the mother that she believed the child’s current risk of suicide was likely to be at “the lower end”, based on what she saw in their session. She recorded that the mother told her that the child’s level of distress had been fluctuating and that, at times, he was worse than how he presented in the session.

15 February 2018: police attend the father’s residence

388. Police from the EE Central CPIU visited the father and Ms V at their home on 15 February 2018. Ms V said they spoke to her briefly about the concerns Y and X had raised; she said she spoke to police about her concern that Mr Z had encouraged X to commit physical acts on his behalf.[307] She said she was asked about the cricket bat – the police officers were shown a plastic air-filled beach cricket bat and told that the child and X received one smack from it.[308]

15 February 2018: the mother does not provide the child for changeover

389. the child was due to go into his father’s care on 15 February 2018 but he did not go to school that day and was not available to be collected by his father from there. [309]

16 February 2018: Dr CE contacts the mother

390. Dr CE called the mother on 16 February 2018. According to the mother, she told her that the child was suffering from post-traumatic stress from chronic prolonged trauma anxiety which stemmed from the fear of the father he had developed as a consequence of being hit by him.[310] She also said the child should be allowed to be in control of when he saw his father, as the child had said that he did not want to see his father on his own; according to the mother, she said that if the child did see his father, he would “deteriorate emotionally and would not be able to start any recovery from his trauma” – this was against her recommendations and very negative for the child.[311]
391. There are no notes about this conversation in evidence before me.
392. The mother said that, after she spoke to Dr CE, she wrote to the father and the Independent Children’s Lawyer and spoke to the child’s school. She said the father sent her (the mother) a message later that evening in which he said that her “behaviour is most likely the cause for the child having problems more due to you alienating against his dad”. The father also told her that Ms V had been told that she and Mr Z had been having conversations in front of the child about Court matters.[312]

16 February 2018: father files an Application in a Case

393. On 16 February 2018, the father filed an Application in a Case seeking, in summary, interim parenting orders that included a recovery order and that the child live with him and spend time with the mother with such time to be supervised in accordance with previous orders made by Judge Howard.

16 February 2018: the mother meets with school staff

394. The mother met with two Deputy Principals on 16 February 2018. According to the school records, she insisted that the child be present in the meeting, despite both deputies’ suggestions at different times to the contrary. Further, she is reported to have repeatedly deferred to the child about whether it was okay by him for her to share some information with the deputies; she is also recorded as having told them, in the child’s presence, that this was a procedure recommended by the clinical psychologist, who treated the child, to reduce his anxiety.
395. When challenged during her cross-examination about whether it had occurred to her that the child should not have been ‘so dramatically included’ in the dispute, the mother rejected the contention that he was; she said she did not refer to any dispute in the child’s presence; she said she had only spoken to the school staff about him saying that he wanted to die and had only told the school what had been happening in order to explain why the child was absent from school.
396. The notes of the meeting include that the mother told the school staff various things whilst getting the child to “nod: as she went: these things included that the child had been very upset when he returned from time with his father the previous Tuesday; he had terrible nightmares and had been screaming until 1am; he had repeatedly asked her not to send him back to his father’s because he thought his father would kill him; that if she did send him then he wanted to die or wanted her to kill him; that the father hit the child in the head so she had taken him for a CT scan and was waiting for the results; that the child thought his father might kill him accidentally; and that she was worried his father would take the child from school ad she would never see him again.

19 February 2018: the father contacts Dr CE

397. Dr CE noted that the father called her on 19 February 2018. He told her that there was an operative Court order prohibiting the mother from taking the child for any professional/medical appointment without his consent.[313]
398. After this, the doctor called the mother, who confirmed the existence of the Court order. According to the doctor’s report, the mother said she had not told the doctor about this because she believed that professionals were not bound by the order. I consider this explanation very unlikely in the circumstances of this case. I think it much more likely than not that the mother simply decided that the child needed urgent assistance and that, having previously contacted the father about this, without response, she decided to ensure that the doctor assessed the child.
399. During his cross-examination, the father said that he was not prepared to allow the mother to use psychologists to “cement ideas into” the child that were not “factual”; he said that, when he saw Dr CE’s report, he decided to stop the child seeing her. He said he had been upset by the fact that the report recounted that the child had said that he hit him.
400. The father also accepted that, if the child had not told Dr CE that his father had hit him, he would have been happy enough for him to see her (although he said he would have preferred the child see a practitioner the parents had agreed about). However, because this reported comment upset him, he did not want the child to see the doctor again and he considered that the mother had taken the child to see the doctor in an attempt to gather evidence against him.

401. Dr CE subsequently told the mother that, given the information provided to her by the father, she could not continue to see the child; she encouraged the parents to work together to seek treatment or support for the child.

Between 15 – 22 February 2018: the mother withholds the child from spending time with the father

402. The mother said that, during this period, she facilitated the child having telephone contact with his father and the paternal grandmother on most days; she also facilitated him spending time with his paternal grandmother on 21 February 2018.[314]

403. According to IJ School Absence Details,[315] the child did not attend school on 9, 13, 14 February (unexplained), 15 February (advised of an appointment), 16 February (unexplained) and 19 February (notified of absence).

404. The mother said this was because the child had told her that his father had asked him questions about when he was going to be at school, which made him not want to go to school.[316] She also said that the child missed school on 19 February 2018 because he was upset and continued to tell her that he would kill himself if his father collected him from school.[317]

22 February 2018: the father collects the child from school; they discuss the “boat incident”

405. The father said that, after he consulted with the principal of the child’s school, the child ‘came back into’ his care on 22 February 2018; he explained this occurred at about 1.30 pm that day so as to avoid confrontation with the mother.[318] The father accepted that he did not tell the mother that this was going to happen before it did.

406. When cross-examined about this, the father said that the paternal grandmother collected the child from school that day after he spoke with the principal to tell him that he wanted to collect the child but did not want any fights and thought it best that the paternal grandmother pick him up. He said that he thought this was best because the child had been withheld from his care for fourteen days and had a good relationship with his grandmother. He also expected that the child might have been a bit apprehensive if he turned up at the school in a way the child had not expected.

407. The mother received a text message from the father at 1.07 pm to tell her that he had collected the child from school “for (his) court appointed time”. [319] She went to the school where she was told that the paternal grandmother had collected the child, with the father.[320] She said she did not hear from the child that day, but the father told her the child wanted to stay with him until Tuesday (as per the orders). She also said that the father told her that she had allowed Mr Z to poison the child’s mind; that no one could treat the child correctly if they did not have all the information about her; that she would have failed to tell “the expert” (whom I presume to have been Dr CE)[321] so he had “stopped it” (which I presume to have been the child attending on a professional like Dr CE) again.[322]

408. The father said that, when he saw the child, he raised the boat incident with him; he suggested that they “best clear the air with each other”. [323] According to the father, the child told him that he had not meant to hurt Y when he pushed him and it was an accident; the father said he had never tried to get the child into trouble by telling his aunt or grandmother and that the child still got to have his turn.[324] The father said he then asked the child if they could just forget it and move on; the child said ‘yes’ and also that he did not want to talk about it anymore.[325]

23 February 2018: “Kiss me naked” incident; the child stays at his paternal grandmother’s house; a welfare check is performed

409. The father, Ms V and the paternal grandmother did not give any account in any affidavit about what happened in the home of the father and Ms V on 23 February 2018 before the child spoke to his mother over the telephone that night.

410. However, during his cross-examination, the father said that the child had told him that X had tried to “kiss him naked” when both boys were naked. He also said that X had tried to prevent the child from speaking to his father about this. The first the mother learned of all of this was during the father’s cross-examination at the trial. Despite this, he denied the suggestion that he had deliberately attempted to conceal the fact of this complaint from the mother. I do not accept his denial.

411. It appeared that neither the father nor Ms V believed the child when he made his complaint to them.

412. It is uncontentious that the father allowed the child to call his mother that evening at around 7.00 pm.[326] She said the child asked her to get him from school on Monday and told her that if she did not, he was going to kill himself.[327] She said he then started to cry more loudly and then started to scream, at which time the father came into the room, told him to hang up and the line was disconnected. The father accepted that, during the phone call, he saw that the child was becoming visibly distressed; he accepted that he entered the room, asked the child what was wrong and ended the call. [328] He then took the child to his paternal grandmother’s home for a sleepover.

413. I accept that it is much more likely than not that, when he saw the child’s distress, the father terminated his Skype call to his mother so as to ensure that the child did not tell his mother about the complaint he had made to his father about X and about not being initially believed.

414. I accept that, after the call was ended, the mother sent the father a text in which she asked him why the child was so upset; I also accept that he did not reply. I consider that it is much more likely than not that the father knew why the child was upset: after all, he knew that the child had told him what he said X had tried to do and he also knew that the child thought he had not been believed.

415. The paternal grandmother said that, when the child came into her care, he was upset because the father did not believe him about something he had told him (and then her). She said the child told her that X had asked him to take off his clothes and kiss him naked. She accepted that this was a significant event from the child’s perspective. She said she did not know whether the father believed the child or not. Her recollection was that she and the child went to speak to the father about what the child had told her: she said the child repeated to the father what had happened, and also repeated that his father had not believed him. She said the father told the child that he believed him but was just shocked at what the child had been asked to do by X; he comforted the child.

416. Having had no reply to her text asking why the child was so upset, the mother went to the EE Central Police Station. She explained what had happened; she was advised to call triple zero. At about 9.50 pm, the father received a call from the police who told him the mother had said that the child had sent her a text message asking her to kill him. The father explained that the child was asleep at his paternal grandmother’s. He did not mention the child’s complaint about X or his initial reaction to it.

417. The mother was subsequently told that police had spoken with the father, who had answered their questions correctly; she was then told to call an ambulance and that police would arrange for a car to attend the premises to check on the child.[329] At about 10.05 pm, the father received a call from the Queensland Ambulance Service: he told them what he had told the police. Again, he did not mention the child’s complaint about X or his initial reaction to it. He then sent to mother a text (at about 10.53 pm) in which he said that the child was asleep and fine.

418. However, police attended at the father’s home at about 2.30 am on 24 February 2018: they asked to see the child; after the father arranged it, they went to the paternal grandmother’s home where they saw the child. The father said he then went to sleep at the paternal grandmother’s home because she had seen the mother outside the property and was concerned.[330]

419. The father denied he had attempted to conceal what happened that day from the Court. He explained that he had chosen not to refer to it because, from his perspective, X and the child were two young boys who had been embroiled in something they never should have been embroiled in by the mother and Mr Z: both of whom he clearly held responsible for what the child reported X had asked him and tried to do. He advanced, in essence, that the mother and Mr Z had, in essence, conspired to have X act as the child reported for the sole purpose of advancing the mother’s case. He also

suggested that X had attempted to record events in his mother's home to help his father (Mr Z) because he was guilty that he had told Ms V about the police attended at Mr Z's home, which had resulted in a suspension of his time with his father (Mr Z). I do not accept this as likely: after all, as the father said, X is "just a nine year old kid".

420. The father also said that he had not mentioned what happened that day as the incident related to the reason Y and X stopped spending time with their father (Mr Z) for a period of time and was not an issue for him or the mother. He continued to attempt to attribute responsibility for the events that day – which culminated in the child's very distressed telephone call to his mother – to the mother and Mr Z. I consider it much more likely than not that he simply did not want the mother to learn of the child's complaint to him and he decided not to tell her anything about it and not to provide her with an outline of what the child had said to him, even when she was trying to work out why the child was so upset when he spoke with her.
421. Further, the father certainly seemed to me to attempt to have the mother's actions, in causing police and other services to attend to check on the child's welfare that night, seen as an example of unreasonable and inexplicable hyper-vigilance on her part.
422. I note also that Ms V said, when asked why she had chosen to omit any reference to the child's complaint from her affidavit in circumstances where she knew that part of the Court's task in hearing further evidence in this matter was to attempt to try to understand those events which may have, in part, led to the child's hospitalisation, that it was not applicable to any of the child's reactions or the hospitalisation.
423. The paternal grandmother said she did not mention what had actually happened that day in her affidavit because her focus was on as on the child and "not on the rest of it"; she said he had become happy within five minutes of speaking with her and had moved on. She also said that he had been listened to and that she and his father believed him and "that was it". In my view, she demonstrated no insight at all about her part in failing to tell the child's mother about an alleged occurrence which had clearly upset him, especially given that, as was raised with her during her cross-examination, it was only about three days after this that the child was in hospital being sedated.
424. The father said during his cross-examination that, when he and Ms V checked X's iPad, they did not see any recording of X trying to kiss the child. That evidence is completely contradicted by Ms V's evidence during her cross-examination that the footage in relation to X filming the child was not even two minutes duration at most (although she later said it was not even one and half minutes duration at most); she also said she thought that the footage had been taken in one of the bedrooms, although she could not identify which one; she said she could see that it was X attempting to kiss the child, although she said it was more X's commentary about that. On her evidence, she and the father watched this footage together.
425. When Ms V was then asked whether the footage she saw on X's iPad with the father would still be on his iPad, she initially agreed; when asked whether there would be any reason why she would not have that footage on his iPad, she said "I guess not, no. I – yes, right." However, when I then asked her "So you haven't deleted it then?" Ms V said: "That's a good question. I did delete some of the footage actually now that you mention that, ... Yes, I had deleted footage".
426. Ms V then went on to explain that, once she had worked out what X was trying to do with it – namely, use it to send to his father – she deleted it. She joined with the father in saying that she assumed that whatever footage X had taken whilst in their care was taken by him at the behest of his father (Mr Z) and to assist him.
427. I also note that the father said he arrived at his conclusion that X had tried to film himself kissing the child whilst they were both naked for Mr Z's benefit (that is, that X deliberately tried to kiss the child so that he could film the two of them so that he could then show that recording to his father, Mr Z) based only on the following: first, because X (then about nine years old) had tried to prevent the child from telling his father and Ms V what he ultimately did; and secondly, that X had tried to conceal this from them.
428. Both the father and Ms V said they did see other videos which X had recorded in their home and care; the father said there were two recordings of X filming his mother whilst they were in the car – he was said to be 'picking a fight' with her (the father said he was "engaging with her and screaming at her and clearly trying to pick a fight"); the father said that, from that alone, he assumed that X was 'making movies for his father' and, based on this assumption, he was shocked. Again, both assumed that X was acting as his father's agent.
429. During her cross-examination, Ms V said that she reached the conclusion that X had been videoing events in her home and had filmed himself trying to kiss the child in an attempt to further his father's case because of the following matters taking in conjunction: first, the fact that he had filmed footage which (having seen it) she described as being of nothing negative and all a bit sporadic and random; secondly, the fact that he had filmed himself trying to kiss the child; and, thirdly because she had the view that Mr Z had put his belief that the child was a "dick-feeler" into X's head so strongly that X was on a mission to support his father. She reached her conclusion about Mr Z's alleged involvement without speaking with X but based on her knowledge of him and his attitudes.
430. She accepted that she formed her conclusion without speaking with X to determine whether his videoing using his iPad and taking footage which she described as recording/s of "nothing negative" was nothing more than him recording randomly on his iPad. In fact, during another part of her cross-examination, it became apparent that it was Ms V who had introduced the idea to X that, in filming himself trying to kiss the child (and, I suspect, in trying to kiss the child) 'it looked like' to her that he had been trying to do something on his father's behalf; she said that whilst X initially denied that suggestion, he "eventually confirmed" what she had said: she explained that she had reiterated her view that that was what he had been doing about twice before he admitted it "in his way" – by which she said that he nodded and said "yes mum".

24 February 2018: the child and his parents meet at McDonald's

431. The father said that, when the child woke up on 24 February 2018, he gave him a hug and told him that he had been "a bit stressed the night before". [331] The father later called the mother and arranged to meet her at Suburb IJ McDonald's. [332] This phone call was the first time he had called her in six months.
432. The father said he called the mother because she was upset about what had happened the night before. He told her that the child had been very distressed and he had taken him to the paternal grandmother's as it is a "safe place for the child". [333] He told her about some events that had been occurring in his household (such as the child's grabbing of his step-brothers' genitals – a behaviour that had resulted in discord between the father and Mr Z since about late 2017 but about which he had not told the mother until that day). Despite specifically raising this behaviour, the father did not tell her that the child had told him the night before that X had tried to kiss him when they were both naked. He did not mention anything about his suspicion that X had tried to film this in support of his father (Mr Z). As already noted, the mother first learned of this when the father gave evidence about it during his cross-examination. I do not accept the father's explanations about his decision not to mention this complaint to her and I do not accept that there was no reason to tell her about it, particularly given the father agreed that day that the child needed help for his anxiety and asked her to organise an appointment with DF House. I also do not accept the father was not in "damage control" when he chose to call the mother. I think it much more likely than not that he wanted to ensure that there was some basis for any comment the child might make to his mother about his interactions with X. I do not accept the father's evidence that he did not think it relevant to tell the mother about what the child had said to him and Ms V: I think it much more likely than not that he was concerned to ensure she did not learn of it and that he and Ms V be left to manage the situation free from the mother's input.
433. According to the father and Ms V, the child was happy, played with X and Y [334] and did not seem stressed on 25 and 26 February 2018. [335]

24 February 2018: police contact the mother

434. Police contacted the mother on 24 February 2018 to ask that she bring the child in to make a statement. She said they told her that X and Y had given statements which corroborated events she had described in her statement and that the child's statement was required to finalise the investigation.[336]

26 February 2018: the mother seeks support for the child

435. When the mother contacted DF House, she was told that, because of the child's threats to kill himself, he needed to be seen first by Child and Youth Mental Health Services ("CYMHS"), who could then refer him back to DF House for subsequent treatment.[337] When the mother learned from CYMHS that it may be three weeks before the child could be seen, she contacted the father and they agreed they should seek help for the child sooner. After the mother made inquiries of a number of services about the availability of psychologists, the father ultimately selected Ms M as the therapist to whom the child would be taken. [338]

27 February 2018: the child returns to his mother's care, attends on M, psychologist and later attends at the EE Hospital

436. The child saw Ms M with both his parents on 27 February 2018. It seems she saw both parents with the child at one point and then saw the child alone whilst they were filling out a questionnaire; she then spent time with the child in the company of each of his parents individually.
437. The mother said that the father left Ms M's rooms first. She also said that when she and the child left, he became distressed and said: "I can never see my dad again"; "I'm going to kill myself".[339] She then took him back in to see Ms M, who advised that, if he did not improve, she should take him to EE Hospital Emergency. The mother said that, when she and the child left in the car, he screamed, shouted and kicked the back seat of the car and told her he had tried to suffocate himself the first night he was at his father's.[340]
438. It is accepted that the mother then contacted the father and arranged to meet him at McDonald's, Suburb IJ. She said she did this despite the child's comments to her because she hoped that seeing his parents working together might help the child calm down.[341] I accept the mother's evidence about her thought processes at the time – particularly given that she had had the recent experience of the father contacting her on 24 February 2018 to suggest that they meet at McDonald's, where he then agreed to the child receiving assistance for his anxiety. I consider it likely that these actions may well have persuaded the mother that she and the father were finally going to address the issue of the child's anxiety in a joint way.
439. I completely reject the father's inferred suggestion that the mother deliberately invited him to meet at McDonald's as part of a deliberate and conscious plan to bring about the maximum distress in the child, so as to advance her case that he relocate to the United Kingdom and to maximise her entitlement in the property settlement proceedings. I accept the thrust of the submissions made by Ms Oakley that the Court would reject any suggestion that the mother had, in any way, deliberately manufactured the child's distress and subsequent attendance at hospital for her own ends; I also accept that there is no reliable evidence to support a finding that the mother acted as she did in furtherance of such a plan.
440. I also reject any suggestion that the mother deliberately exposed the child to additional stress in order to ensure that he presented in an agitated and distressed state at the hospital.
441. I accept that during their journey to her home, the child continued to scream that "I'm going to kill myself if I have to go back to my dad's". I accept the mother called the father to tell him she was going to take the child to the hospital. I accept that, when she and the child arrived at the hospital, they were put into a treatment room, where the child continued to scream and said that he would kill himself.[342]
442. I accept that, with the consent of both parents, the child was medicated. Despite the administration of sedatives intended to help calm him down, the child continued to shout and threaten self-harm; consequently, he was moved to a de-escalation room. I accept that the mother was told that he would have to be further sedated further if he continued to try to hurt himself.
443. I accept the mother's evidence about her approach to learning that the father was at the hospital; I accept that she did not prevent the father from entering the treatment room and that the decision about that was made by hospital staff.
444. I note that the father considered that the mother was not a calming influence for the child as his behaviour deteriorated and his anxiety increased in her presence. I accept that he suggest that the paternal grandmother go through to be with the child in order to comfort and support him.
445. I also accept that, whilst the child was being treated, the father told staff at the hospital that the mother was "high risk", that she was "programming" the child and that she had an extensive mental health history.[343] According to the hospital notes, he "stated mother has extensive mental health history and is a danger to son". He complained that did not understand why he was not allowed to see the child but she was given that she was "high risk" and he was not.
446. I accept that he also had Ms V provide the hospital with a copy of Dr P's report and Mr O's third Family Report. Whilst the father said that he did this because he felt they were relevant, he did not tell the hospital that police had attended his home on 21 January 2018 in response to Ms V's call and report that she was being assaulted and he did not tell the hospital about the child's complaint to him on 23 February 2018 about X's alleged behaviour toward him.
447. In my view, he deliberately withheld information that was relevant to a full and proper appreciation of the stressors to which the child had been exposed in the month before his admission to hospital.
448. I do not accept that the father failed to appreciate the potential relevance of this information to those entrusted with the obligation to make decisions about how to treat the child. That the father remained silent in the face of the hospital's request to administer sedatives to his seven year old son and determined to continue to refrain from any mention of those matters (which he knew were unknown to the mother and known only to him, Ms V and the paternal grandmother) amounts, in my view, to an abject failure to discharge a fundamental aspect of parenting and parental responsibility. This failure prevented hospital staff from having the opportunity to consider whether what happened on 21 January and what was alleged on 23 February were in any way responsible for the child's condition on admission to the hospital.

28 February 2018 – 21 March 2018: the child does not attend school

449. The mother said that after the child was discharged from the hospital and returned home, it was not long before he deteriorated again; she said that, over the next few hours, he ran to the kitchen on three occasions, tried to find sharp knives and said he was going to kill himself.[344]
450. The mother later advised the father that the child would not attend at school until his behaviour settled.[345] In fact, he was absent for 16 school days and did not return to school until 22 March 2018.
451. The mother was contacted by CYMHS on 28 February 2018. She was advised that the child had an appointment for a Risk Assessment on 1 March 2018; the service also advised that the child would be offered ongoing support.[346]

1 March 2018: the child attends CYMHS with the mother; the mother arranges another appointment with Ms M

452. The father sent the mother a text on 1 March 2018 to advise that he had been held up at work; he asked that she have CYMHS contact him. Consequently, only the mother and the child met with a CYMHS psychologist (Ms EG) that day. The mother said that Ms EG told her the child was a low risk of suicide whilst in her care, provided that she continued to keep sharp knives and hide sharp objects from him.[347] His next appointment was scheduled for 26 March 2018.

453. After the 1 March 2018 appointment, the mother sent the father a text message and an email in which she advised him of the feedback provided; she also advised him of the next appointment. She also told him that she would take the child to see Ms M in the interim: she advised him of the next appointment she had arranged.

3 March 2018: the child speaks to his paternal grandmother

454. On 3 March 2018 the child rang his paternal grandmother and spoke to her for about an hour, and told her that he would be going to school on Monday and sounded enthusiastic about doing so.^[348] The father says he missed a phone call from the child this day.

4 March 2018: the father responds to the mother's text

455. On 4 March 2018, the father sent the mother a text to tell her that the time she had arranged for the child to see Ms M was not suitable.

5 March 2018: the father sends the mother a text

456. On 5 March 2018, the father sent the mother a text about the appointment with Ms M. In it he said that "based on how upsetting it was for the child last time I don't think he should go at this present time".^[349]

6 March 2018: the child continues to make comments that he wants to kill himself

457. The father contacted the mother on 6 March 2018 to ask when the child would go to school. She told him that the child said daily that he was going to kill himself and that he wanted to kill himself; she said she had to physically stop him. She also said that he thought that the father would collect him from school again.^[350]

458. In his evidence, the father said that the child was happy in his care; he said that, outside the mother's influences, there was no mention that the child disliked him. He had never heard the child make such comments whilst in his care. He also said that any "issues" were generated and reinforced by the mother to hurt him; he advanced that the Court should conclude that, in doing this, the mother was causing the child "major damage".^[351]

10 and 13 March 2018: the father speaks to the child

459. The father said he spoke to the child when the child was at the paternal grandmother's house on 10 March 2018.^[352] He said the child told him that he was looking forward to seeing him again and was looking forward to going to school, although he did not know when that would happen.

460. The child telephoned the father in March 2018 to wish Y a happy birthday.^[353] The father said he spoke with the child for over an hour and when he asked him if he was looking forward to seeing him, the child replied that he was. The father also said that the child, whom he described as being in good spirits, told him that he missed him.

20 March 2018: the child and his parents attend Ms R, Family Consultant

461. On 20 March 2018, the child and his parents attended on Ms R, a Family Consultant, for a Child Inclusive Conference.

462. Ms R outlined that the child refused to separate from his mother to go into childcare; he said he did not want his mother to talk separately and he would not leave her. Ms R reported that the mother remained calm, kept her voice quiet, offered reassurance and provided clear encouragement for the child to go into childcare but he continued to refuse. She noted his distress appeared to increase outside of the childcare room: she observed an increase in the volume of his voice, he physically pulled away from his mother and distanced himself from the room; he also said words to the effect of "you'll trick me and then leave me like you always do"; "what if dad comes and takes me".

463. Ms R reported that the child appeared to quickly relax upon entering her office with his mother, whom she thought appropriate in her interactions with the child; he physically let go of her and focused on the activity. However, when the mother waited outside, the child refused to participate in an activity with Ms R: she said he changed rapidly from his relaxed state, to holding onto his mother's arm, burying his face in her chest and stating he would not separate. Consequently, because the child refused to be separated from his mother, Ms R conducted her interview of the child in the mother's presence (she described that the mother faced away from the child and did not engage in any of the interview process).

464. Ms R reported that the child agreed he had said things about hurting himself; he said this was because he did not want to see his father. He could not provide any further insight into this behaviour, which Ms R said was not unexpected, given his age. She reported that the child spoke positively about school: he said it was "good"; "except that time when Dad took me": he said it was "illegal". When asked how he knew this, the child said words to the effect of "isn't it written down on paper somewhere?"; "I don't know, but the principal is not allowed to let a parent take a child when it's not their day". The child reported being very worried about being taken from school.

465. According to the Memorandum she authored, the child told her he was scared of his father because "he hits me"; he said his father had hit him in the boat and lied about it.^[354] I note that the father said in his evidence that, to know this information, the child must have been told about the contents of Ms V's affidavit.^[355]

466. Ms R records that the child also said that "most of the time I feel scared"; "I'm scared he (the father) might accidentally kill me"; "I can't trust him" and "he promised he wouldn't hit me".

467. Ms R considered that the child's comments about his father appeared unbalanced, in that he was unable to recall any positive times with him, despite having consistent visits with his father since 2015. She said the child's fear of being killed by his father presented as a strong reaction to his concerns about his father hitting him; she also thought this could be regarded as an indicia of catastrophic thinking, consistent with anxiety problems.

468. Ms R was unable to conduct any observations of the child interacting with his father that day. She reported that the father denied that the child had any history of major separation anxiety; he told her that he did not believe that the child was an anxious child. He said that a paediatrician had suggested the child was anxious, but he had not seen any indicia of anxiety when the child was in his care; he said he believed that the child may experience anxiety as a result of the mother's behaviour, including her hypervigilance.

469. Ms R suggested that the child needed a carefully formulated therapeutic treatment plan, with a view to helping him to return to school and to see his father; she opined that treatment would likely involve both parents. She suggested that the child's ongoing treatment be limited to one consistent professional care team.

23 March 2018: Interim Hearing

470. I heard the father's application for further parenting orders on 23 March 2018. On 26 March 2018, I suspended the operation of orders 5(a) and 5(b) of the orders made by Judge Howard on 18 December 2015 and ordered that the child spend time with his father for seven nights during the Easter school holiday period and for five nights between 19 and 24 April and that his time be supervised by the paternal grandmother.

471. The mother said that, after the Court event on 23 March 2018, she spoke with the child on many occasions and was able to persuade him to spend time with his father.^[356] She said she then sent the father a text to invite him to see the child over the weekend at McDonald's but the father replied to say that he did not have time.

26 March 2018: the child sees his father

472. When the father texted the mother on 26 March 2018 to say that he could spend time with the child at McDonald's Suburb IJ, the mother facilitated the same. She said the child played quite happily in the playground with Y and X.^[357]
473. Police contacted the mother on 26 March 2018 to ask that she take the child to the L Town police station the next day after school for interview.

27 March 2018: the child attends L Town Police Station to be interviewed

474. On 27 March 2018, the child was interviewed by police at the L Town Police Station. According to the Supplementary Report^[358] he disclosed two incidents:
- a) he described being on a boat with his father, his granny, his aunty and her children and his step-siblings; he described mucking around in the boat; he pushed [redacted name] who fell into his father who was driving the boat. His father then hit him in the head with a closed fist. The Report also recorded that it was noted that the child later clarified he was not sure if it was open or closed or maybe just half open (presumably the fist). He described the pain as hurt a little – when he showed the amount of force used by his father on the couch in the interview room, the interviewer described it as “gentle/soft”; and
- b) he described being at the skate park, being naughty and fighting with his step-brothers; he said that when he returned home, his father hit him on the bum/back of the legs with a plastic cricket bat (a toy one). He described that it only hurt a little bit and he was more concerned about the father using physical discipline.
475. Reference to recording of the child's interview seems to me to establish that, when he was interviewed, he told the police officer that his father took him out on a ski boat; that he (the child) accidentally pushed Y into his father and his father then came up to the front of the boat and hit him in the head. He said his father then claimed he only hit him really gently but it was a closed fist. In answering further questions about the boat incident, the child told the police that that his father “punched me with closed fist in the head”; he also said that the father “tried to say it was a flat hand not very hard, this hard, but it was actually closed a fist...” the child told the police that, whilst his father did not say anything at the time, about 20 minutes later he said “sorry” because the child was crying; the child said he was only crying for about 20 seconds because he was hit and that he was crying for the rest of the time because the father had sworn to him that he would never do something like that because he loved him.
476. When asked why he thought his father hit him, the child said it was when he was naughty; he said he kept telling his father to put him in time-out instead and that his father said he would and would not hit him anymore, but then the next time he hit him again.
477. The child repeated that the majority of his crying related to the fact that the father had hit him when he thought he would never do that because he (his father) loves him.
478. When asked how he knew that his father was claiming that he hit him with a flat hand gently, the child said “because he told me.” He also said that he did not know why his father was saying that now because “it definitely was a closed fist”. When the child was asked when he spoke to his father about this, he said “um when he took me from school.” This account corresponds to the father's evidence that, after he collected the child from school on 22 February 2018, he spoke to him about the boat incident.
479. The child also said that his father had once promised him when he was little that he would stop hitting him and he did not; he did not stop hitting him. He said that, when he was naughty, his father scared him and ran after him like he was about to hit him, so he would run into his room and lock himself in there. He said he was worried that his father was going to hit him like “he always did.” It seems to me that the child's comments about his father chasing after him are, in a sense, corroborated by Ms V's account of the occasion when the father chased X down the hall and she intervened.
480. The child also told the police officer about an occasion when he and X were out at the skate park and fighting with each other – when they got home they hid because they were escaping the father who hurt them and who had once picked X up by the hair. the child told the police officer that the father told them they would have to sleep outside; they said that was okay and then the father got a cricket bat and smacked them with it.
481. When the child was asked questions later in the interview about this incident, he clarified that the person he was talking about was his father and not “X's dad”. He said he saw his father hit X with the cricket bat first and so he got onto the trampoline, his father then climbed onto the trampoline and hit him with a plastic cricket bat on the “bum”. He said it stung. He also said that about a month later his father hit himself on the bum with the bat to show him (the child) how much it did not hurt, but he (the father) regretted it because it really did hurt (which the child said he found quite funny).the child also said that his father had told him that he was sorry, he should not have done it.
482. The child also told the police that he thought the father and Ms V would split up because “it keeps on getting worse and worse”; “they keep getting mad at each other and every time they do it gets worse and worse, and they do it like every month, every two months”; he said he knew that they would definitely split up one day.
483. The child also said that Y (who he said had never lied to him) told him that the father said that, if he ever saw “X and Y's dad” (Mr Z) and X walking on the road and he was in the car, he would run them over.
484. When answering questions about the boat incident the child told the police that “granny” (the paternal grandmother) had never hurt him. Given that there is no suggestion that the paternal grandmother has ever hit the child, it seems to me that this answer provides support for the conclusion that the child was telling the police officer the truth during his interview. This conclusion is further supported by the fact that, when the child was asked whether he had told anyone apart from the mother and the police about what had happened (like doctors or psychologists), he said that he had: in fact, he told Dr CE about the event on 15 February 2018.
485. The child also told the police officer that he told his mother about his father and about what had been happening when he got back to her; he said he could not go to Ms V because she believed in hitting: he gave an example of X hitting her in the car when she was driving and her hitting him back. Interestingly, one of the recordings the father said that he had seen on X's iPad was of X in the car with the Ms V and trying to get into an argument with her.
486. According to the contents of the Supplementary Report (dated 13 April 2018), after investigation, it was concluded that the two incidents appeared minor in nature as far as force was concerned; it was also concluded that they fell within the boundaries of “domestic discipline”.

28 March 2018: Ms M declines to remain involved

487. On 28 March 2018, Ms M told the mother that she declined to see the child as he was “too complex”. She said she would write to the parties with other options.^[359]

29 March – 5 April 2018: the child spends time with his father, supervised by the paternal grandmother

488. On 29 March 2018, Ms V and the father attended IJ School to see the child and Y perform in the Easter parade. They met up with the paternal grandmother who was there to collect the child to spend time in her care.^[360]
489. The paternal grandmother said that, when she went into the classroom to sign the child out, he approached her with his mother and asked “mummy wants to know if she can camp in your garden while I am at your place”. She said that when she told him “no”, he went into a huge temper tantrum

and screamed and clutched onto his mother and said “I am going to kill myself”.^[361] According to the father, he then walked over and picked the child up; he walked away briskly.^[362] He said the child was upset for the first 20 metres until he was out of his mother’s sight and then calmed. He also said that, when he asked the child why he behaved like that, the child offered no explanation. However, when his grandmother later asked him why he behaved like that, he replied “mummy likes me to do that”.^[363]

490. The mother’s account differed significantly to that provided by the father and paternal grandmother. She said the child became agitated when he saw the father at the end of the Easter parade; when the father took the child from his class and put him over his shoulder, he screamed “mummy help me, I will kill myself”.^[364] She said she felt that the child’s reaction could have been avoided if the father had not been there: she said the child had been calm through the day, in preparation for going home with his paternal grandmother and he knew he would see his father later but did not expect to see him at school.

491. The mother also said that, when the child returned to her care, he told her that his grandmother had told him that she (the mother) had made him behave that way “so he would be taken off his dad”. He also reported that it had been very stressful, because he told his grandmother repeatedly that this was not true but she did not believe him.

5 April 2018: the child returns to his mother’s care

492. The mother said that when the child returned to her care on 5 April 2018 after spending time with his father, he was very talkative and said he had missed her but had not been allowed to speak to her by phone.^[365] He told her that his father and paternal grandmother told him the Judge had said he was not allowed to call or speak to her.^[366] He also told her that he had been thrown to the floor by the father because he kicked the child’s genitals by mistake when they were play-fighting.^[367]

493. The mother said that the child’s behaviour had been erratic following his return to her: at time she was happy and at times he was upset. She said he knew that he would see his father again on 19 April 2018.

13 April 2018: Police speak with the father

494. Police attended the father’s residence on 13 April 2018. He told them that he was aware of the complaint; his description of the incidents was consistent with that provided by the child save for the fact that he denied hitting the child with an open or closed fist and said that he had placed his hand out onto the child’s forehead and slightly pushed to tell him to stop what he was doing on the boat.

1, 2 & 18 May 2018: the Department interviews the relevant parties

495. According to the Safety Assessment,^[368] the child, X and Y were interviewed by Departmental officers at school on 1 May 2018. In addition, the Departmental officers interviewed the principal and deputy principal of the school. Mr Z and the mother were each interviewed on 2 May 2018, and the father and Ms V on 18 May 2018.

496. The Assessment recorded that, during the children’s interviews, it was evident that they were experiencing emotional distress due to parental conflict “arising through Family Court proceedings.”

497. I digress to record that it seems to me that the parental conflict in this matter has not arisen ‘through’ the legal proceedings but has been the cause of the same: that is, without the severe parental conflict which is evident in this case (as is amply demonstrated by the disagreements the parents have had about virtually every aspect of the child’s parenting over the vast majority of his life to date), the child’s parents would not have needed to have recourse to the Court; it is the parental conflict about matters pertaining to the child and his parents’ demonstrated inability to compromise their respective views about the appropriate manner in which his issues should be addressed that has resulted in this long-standing litigation. Given the breadth of the parental conflict, its endurance and the tenacity with which each parent holds his or her views about the other and the appropriate manner by which the child should be parented, it would be extremely naïve to think that the completion of these proceedings will, in some magic way, cause all of the conflict to resolve. I am confident in concluding that, whatever other uncertainties attend the child’s life, he will be able to rely on the immutable certainty of ongoing parental conflict and disharmony.

498. I note that the Assessment also recorded that the children disclosed the excessive physical discipline which had been reported; however, it was concluded that this had not recently been an issue in the house since the last reported incident in December. Given this, the Assessment concluded that there were no immediate harm indicators identified for the children.

499. When interviewed, the child told the Departmental officers that his father used to hit him but is not allowed to anymore. He said his father was not allowed to see him without a supervisor, who is the paternal grandmother. When he was asked how he felt being at his father’s house, the child said he sometimes felt a bit nervous when he got into trouble, because he was so used to his father hitting him; he said that his father sometimes ran after him and that he (the child) had to run to the bedroom and lock the doors.^[369]

500. When the child was asked what he thought needed to happen to make him feel safe and happy, he said he would feel safer if his father was at a play centre instead, without someone from his father’s family as a supervisor – they could just visit him with his father.

501. The interviewing Departmental officers stated that the child spoke in an adult manner and appeared to be parroting things he had heard from others (possibly parents); he struggled to provide reasons or rationale for his comments.

502. The Department concluded^[370] that the child, X and Y were not at an unacceptable risk of experiencing harm and/or future harm in the care of their parents which could be shown to have a detrimental effect of a significant nature on their physical, psychological or emotional wellbeing. The Department also concluded that no further Departmental involvement was then required.

503. The Assessment concluded that, whilst there was information or evidence to suggest the children had been significantly emotionally harmed as a result of Family Court parental conflict (I reiterate that which I have already said: namely, it is not “Family Court parental conflict” which has emotionally damaged the children but “parental conflict”), the concerns about physical abuse did not seem to be an ongoing issue – a matter which was thought to reduce the future risk of significant harm occurring.

504. The Assessment also recorded that the child, X and Y were in the middle of ongoing family law custody issues that are highly contested; it was said that, should the conflict continue and the children are exposed to the ongoing conflict, this may impact on their emotional wellbeing.

505. I have already expressed my findings about the likelihood of the continuation of the parental conflict between the child’s parents. In addition, the duration and extent of the prenatal conflict enveloping the child is such that I have concluded that it is much more likely than not that his emotional wellbeing has already been significantly detrimentally effected by exposure to it, as a consequences of his transitioning between two parents for whom engagement in parental conflict must now be regarded as almost habitual.

PRINCIPLES

506. The statutory framework does not deal differently or specifically with cases involving the proposed relocation of a child. Therefore, the determination of the competing parenting proposals must, of course, occur according to the well-known statutory provisions which provide that, having had regard to the Objects of Part VII of the *Family Law Act 1975* (Cth), the principles which underpin those Objects^[371] and, subject to s 61DA, s 65DAB^[372]

and Division 6 of Part VII of the Act, such parenting order as thought proper may be made.[373] In arriving at the parenting order I think is proper in the circumstances of this case, I have had regard to the Objects of Part VII of the Act and the principles which underpin the same.

507. In deciding whether to make a parenting order, I must regard the child's best interests as the paramount consideration.[374] Such interests should not be viewed in the abstract or separate from the circumstances of his parents.[375] Further, the statutory exhortation to regard the child's best interests as the paramount consideration does not mean that the legitimate desires and interests of his parents are to be completely ignored – rather, where legitimate parental interests conflict with the child's best interests, the former must give way.[376] That is, the determination of those orders which are in the child's best interests may well mean that one parent's "choice" is effectively outweighed in the balance; from a parent's perspective, the outcome may not be optimal.
508. Further, whilst the matters to be considered in determining those parenting orders which are in the child's best interests are as prescribed by s 60CC of the Act, it is unnecessary for each consideration to be the subject of any particular discussion, particularly where the evidence relevant to it leads inexorably to a particular conclusion.[377] Any failure to mention a consideration specifically does not mean it has been overlooked in my deliberations about those orders which are in the child's best interests and I have considered all of the relevant considerations in arising at my conclusion about those orders which are in his best interests.

The child: the benefit to him of having a meaningful relationship with both parents; the need to protect him from harm from being exposed or subjected to abuse, neglect or family violence; his views; his relationship with each parent and others; his functioning[378]

509. As at November 2013, Mr O's view was that it was highly likely the child, who appeared to him to be immature for his age, had been affected by the parental conflict; he also thought it likely he would be experiencing confusion and insecurity at that time.[379] I accept this evidence.
510. I accept that, if the child continues to be exposed to parental conflict in the future as I find he has been in the past, the likely impact on his functioning (in both the short and long term) will likely be a perpetuation of the anxiety about which Dr Q gave evidence; I also accept that such exposure will likely lead to a suite of negative (and possibly lifelong) ramifications, which include mental health difficulties, developmental problems, personality problems, behaviour issues, emotional problems and attachment problems. It is immediately obvious that the likely negative impacts for the child of a continuation of exposure to his parents' conflict are wide-ranging and all-encompassing.
511. I note that, in his April 2015 Family Report,[380] Mr O opined that, where there has been protracted conflict between parents (as there has been here) and where there has been very poor parental communication (as there has been here) and where the parents' regard for each other may be so low (as it is here) that their ability to encourage the child to have a positive relationship with the other parent is questionable, it can be necessary to ensure that a child lives primarily with one parent in order to minimise the risk of that child suffering emotional harm.
512. Given the evidence which I have set out above in exhaustive detail in order to demonstrate the extent of the parental conflict and the consequences of the same to which the child has been exposed to date, I am compelled to conclude that the only way the future risk of negative impacts on the child's emotional and psychological functioning (already negatively impacted, in my view, by virtue of him being the child of these two parents for whom conflictual engagement is the norm) will be minimised is to provide that he lives primarily with one parent and to ensure that that parent is empowered to exercise sole parental responsibility for major long issues relating to him.
513. As already noted, Mr O previously opined that the parent with whom the child should primarily live should be that parent who was thought to be sufficiently nurturing and caring, who appeared to be most attuned to his needs and who appeared to be the most likely to encourage his relationship with the other parent. Whilst he then thought that such a parenting arrangement could still allow for the child to spend meaningful time with "the other parent", this was predicated on such time being achieved with minimal disruption, conflict and emotional distress to the child.
514. In my view, the lengthy history of disruption to the child's care arrangements (as each parent withheld him at various times for various durations of time without affording him the opportunity to spend time with the other), the extensive conflict in which they have engaged about so many facets of the child's life (by way of example only: did he have asthma or not; was he allergic to dogs; did he have autism or not or only some of the behaviours indicative of this; should he receive support for anxiety at all, or at certain times and, if so, when; if he should receive support for anxiety, what type of support and from whom and which parent should have the ultimate 'say' about whom that service provider should be) and their failure to communicate meaningfully about matters relevant to the child's needs (by way of example only: the father's determination not to tell anyone – even the treating medical professionals at the hospital – about the events of 21 January 2018 and 23 February 2018 even when the child was admitted on 27 February 2018 in such a state of emotional dysregulation and distress that he required significant medications in order to calm him) clearly establishes to me that it is being parented by his parents in the manner that has occurred to date which is more likely than not to have contributed to the anxiety from which Dr Q has diagnosed him as suffering.
515. I note that, when the mother reported that the child had "self-harmed" (by which, at trial, she explained she meant he had bitten into his forearm, causing himself to bleed, for no apparent reason), Dr P expressed his concern in December 2016 about the nature of the child's mental state, particularly given the relationship between such self-harming and the nature and severity of post-separation parenting conflict.
516. Further, Dr Q's evidence at the trial in March 2017 was to the effect that it was unlikely to be beneficial to the child's future development if he continued to be exposed to parental conflict. As must already be apparent, I certainly accept that minimising his exposure to the same can only be beneficial for the child in the future.
517. Whilst the mother did not raise the issue of the child self-harming during her February 2017 interview with Mr O (a fact which caused him to opine that it was not a prominent concern for her at that time),[381] the recent hospital admission certainly suggests to me that it is more likely than not that the child continues to manifest the effects of ongoing exposure to his parents' conflict.

The child's functioning, his relationship with each parent and the likely effect on him if the order sought by each parent is made

518. Following his interview in October 2013, Mr O thought the child (who had just turned three years of age) appeared immature; his language development was at a two word utterance stage.[382] Mr O did not seem to think that either parent contributed to this because he noted that their interactions with the child suggested that his mild language delay was not due to any lack of stimulation – they were both seen to communicate very well with him and to model language to him during their interactions. Mr O thought, though, that it would be appropriate for the child to be assessed by a Speech Language Pathologist.
519. In the November 2013 Family Report, Mr O noted that the child (then just turned three) displayed some confusion at times of transition, though he was relatively easily reassured.[383] He noted the child seemed to become quite distressed after twelve minutes alone with his mother; he opined that the child then probably wondered if his father was going to return. Mr O concluded it was apparent that the child had a secure attachment to his father; he thought he was easily reassured by his father but less easily reassured by his mother when his father was absent for more than twelve minutes.[384]
520. When he interviewed the child in March 2015, Mr O considered him a delightful little boy who either had some problems with speech development and understanding of language or, alternatively or in combination, may have had some mild attention difficulties which manifested as difficulties in attending to instructions at times.[385]
521. Having interviewed the child in February 2017, Mr O concluded that it was quite apparent he was a child with significant needs in the areas of emotional regulation and activity levels.[386] He also thought that the child's difficulties meant that he would need intermittent, but regular, input

from a professional with respect to his future mental health.[387]

522. Mr O said that, when it came to discussing anything pertaining to parenting arrangements during the February 2017 interview, nearly 6½ year old the child was noncommittal. He considered this indicated that the child was well and truly aware of a need not to say anything that may exacerbate the parental conflict. I accept this as much more likely than not. Mr O thought this a further factor to be considered with respect to anxiety development. [388] He also noted that the child still required, and was given, a bottle at night by both parents, who acquiesced to his demands. Mr O outlined that both parents needed to co-operate and work together to ensure that the child's behavioural issues were addressed in an appropriate manner in the future.[389]

The father (and the maternal grandmother and Ms V[390]): the extent to which they have been involved in the child's life; the extent to which the father has fulfilled his obligation to maintain the child; the father's capacity to meet the child's needs; the father's attitude to the child and the responsibilities of parenthood; the attitude of the father and the paternal grandmother to the mother and about the child's relationship with his mother[391]

523. I accept Dr P's assessment of the father (following interview on 8 December 2016)[392] as a person who did not present with diagnosable psychiatric illness or history of the same and that, in essence, there is no psychiatric condition which prevents him from being able to parent the child to a satisfactory standard.
524. The father said he was the child's primary care giver and the person with whom the child had the most contact from birth to August 2015.[393] The mother refutes this assertion and advances that both parents cared for the child, especially given that she worked from home. Given Mr O's assessment of the child's relationship with each of his parents as at early 2017 and my acceptance that, as at that time at least, he was clearly attached to both of them, I do not consider it necessary in this proceeding to reach a firm conclusion about the parent by whom his care needs were met until August 2015.
525. Having observed both parents interact with the child during his first interview in 2013, Mr O reported that the father was very enthusiastic and encouraging in the manner in which he engaged with the child; he provided him with many models of communication and engaged directly and in a child-focused manner with the child.[394] Mr O noted that the child appeared entirely relaxed in his father's presence; whilst the child became distressed when the father mentioned leaving and called for his mother, the father was then easily able to distract and settle him.[395]
526. In February 2017, Mr O opined that the father had been a very positive influence for the child's development; he also thought Y and X (his two de facto step-siblings) provided a model for social development and that it was more, rather than less, likely that the child would benefit from greater exposure to them. However, Mr O was unaware of the issue of the child grabbing at those boys' penis' and the subsequent derogatory communications between the father and Mr Z (X and Y's father) about that issue; consequently, his suggestion that the relationship between the child and Ms V's children and its potential impacts for the child is a factor which favours the child spending more time with his father[396] has to be seen in that light; Mr O was also unaware of the child's described behaviour toward his father and Ms V's children in early 2018 (calling them "arseholes" and being generally very badly behaved and disruptive).
527. I accept that the father and the paternal grandmother have both been significantly involved in the child's life to date and that both want to maintain a significant presence in the child's life in the future. I accept they both love the child. I accept that the child has a significant attachment to his paternal grandmother and that he has spent a lot of time with her. I accept that the child loves his father and his paternal grandmother.

Attitude to the mother

528. Ms W (the mother's sister) said that, when she visited the mother in late 2012, she heard the father make comments to the child about the mother when she was not present: these comments included "daddy is the better parent... you don't really have a mummy" and "your mummy doesn't care about you but I do." She also said he called the mother a "5 minute mummy".[397] She was not challenged about this evidence and I accept it. Whilst these comments were, I accept, made in late 2012, I consider them significant in that they are demonstrative of the father's attitude toward the mother and his view of her as person and a parent, even when the child was only about one and a half years of age. I am persuaded on the evidence before me that this dismissive attitude remains, notwithstanding his comments to Mr O during the last Family Report interview.
529. The father's attitude toward the mother as a parent is further demonstrated by his comment to Mr O in March 2015 (during the second Family Report interview) to the effect that he could not imagine any set of circumstances that would allow the parties to have a co-parenting relationship.[398] Further, as the father told Dr P in December 2016, it is abundantly clear that the parties have struggled in every aspect of their separation. Nothing in the evidence makes either of these reports redundant.
530. Another example of the father's attitude to the mother as one of the child's parents is his expressed concern to Dr P in December 2016 that she had "Munchausen's" (that is: she had engaged in a pattern of deliberate wrong-doing to the child in which she fabricated or invented illness and disease). Whilst the father accepted, during his cross-examination in March 2017, that he no longer held any concerns about the mother suffering from Munchausen's by proxy, the fact that he was prepared to make such an accusation is, in my view, demonstrative of a willingness to seek to portray the mother in the worst possible light: after all, to allege deliberate harming by a parent of that parent's child is a far cry from asserting that a parent is over-anxious about their child's health and, as a result of that anxiety, moved to undertake more medical investigations that a more emotionally robust and less anxious parent may consider necessary. I am also persuaded that, in making the allegation he did to Dr P about the mother, the father knew that it was a very grave allegation to make.
531. It is concerning to record that, during the trial in March 2017, the paternal grandmother said she also held the belief that the mother has Munchausen's by proxy.
532. In February 2017, the father told Mr O that the parents are now communicating over medical issues and they are forced to talk to each other, and believed this has had a positive effect upon their communications. He said that the order that compels the parents to reach joint decisions about medical issues has been particularly beneficial in actually forcing him and the mother to communicate, and saw that this has been a good thing in terms of enhancing their communication.[399] Further, at the trial in March 2017, the father said that previous comments he had made about the mother – including that she was "a lying narcissist", "spoilt brat", "a woman who could not and never will be child-focused" – were wrong; he said that, since the second Family Report, he had grown up and reflected on his assessments of her behaviour. I do not accept that the father was truthful in saying that he accepted that his previous comments were wrong; I consider it much more likely than not that he simply determined to say whatever he thought would best advance his case for the parenting orders he sought.
533. This conclusion is strengthened by the paternal grandmother's evidence that, as recently as during 2018, the father had expressed concerns about the mother's mental health and had said that she was not fit to parent the child. In addition, she said this was a view he continued to express and it is a view in which she concurs. I accept her evidence in this respect.
534. I consider that the father's current attitude toward the mother is aptly demonstrated by the manner in which he cross-examined her about her decision to contact him when the child was upset after the consultation with Ms M and to seek to meet with him in the hope that this might help the child to calm down: he suggested to her that, if the child had been as distressed after the Gist appointment as she said he was, she should have gone straight to the EE hospital, "not confront the father": that he chose that word to describe what was clearly a "meeting" is very demonstrative of the lens through which the father continues to view the mother's actions toward him.

535. I accept that it is highly likely that the father has denigrated the mother to the child; I accept it is quite likely that, as the child reported to her, the father has told him that she is going to take him to the United Kingdom and kill him; is fat and going to die; is going to be locked up because she is a bad person and has stolen and spent all of his (the father's) money.[400] I also accept as likely that Ms V has, on occasion, made derogatory remarks about the mother to the child; I accept that it is more likely than not that, on occasion, Ms V has told the child that she (his mother) is not a good mother; is a bad mother who does not love him because she (the mother) is a fat, lazy pig who is going to take him to the United Kingdom and never bring him back to see the father.[401]
536. I also consider it more likely than not that there have been occasions on which the father has discussed Court matters and proceedings with the child. [402]

Attitude and approach to the child's medical and other issues

537. I accept that the father has consistently expressed his concern about the child being properly medically assessed and treated; I also accept that he has consistently been concerned that, when in his mother's care, the child has been subjected to what he regards as unnecessary medical appointments, I accept that he has consistently expressed a concern that the child is being over-diagnosed and/or medically treated unnecessarily.
538. I consider his approach to the child's health and that taken by the mother to be completely diametrically opposed. The father does not regard the child as suffering from anxiety. He clearly regards that any complaint made by the child about his physical state is as a result of the negative influence of, or pre-occupation by, the mother about such issues: for example, I accept the mother's evidence to the effect that, when the child called his father in mid-June 2017 to complain of a sore and swollen elbow after an outing to the skate park, the father was dismissive of his complaint[403]; I consider that he is completely dismissive of any report by the mother about any medical treatment the child receives whilst in her care and that complaints (or information) about the child's health are seen as her "poisoning" the child's mind about such issues. [404]
539. By way of further example of the manner in which issues about the child's health have been dealt with by his parents, I accept that, in late December 2017, the father decided not to respond to a text from the mother in which she told him about issues she said the child was having with constipation; he said he did not respond to her text because the child did not have any of those issues when he was at his home: his attitude was very much "what am I supposed to do about it?"; he was also clear in saying that he would not respond to such messages about such an issue unless he was experiencing the same problems whilst the child was in his care; this was the approach he decided to take despite appreciating that the child was moving between his parents' homes, might, because of different diets, experience difficulties with constipation in one home and not the other and that it might also be possible that he was suffering from an illness that resulted in constipation.
540. I accept as more likely than not that the father has, on occasion, refused to implement recommendations made by doctors about the child's health; I accept that his approach to health issues is a much more laissez-fair approach than that taken by the mother; I also accept as likely that, consistent with this and consistent with what I assess to be his overall attitude to health issues, the child has, on occasion[405], been required to be more hands on in dealing with his own health issues whilst in his father's care than in his mother's care, where she assumes responsibility for the same.
541. Despite the conclusion just expressed, I am also persuaded that it is more likely than not that, when the father forms a view about a matter relating to the child's health, he is unwavering in his adherence to it. His attitude in this respect seems to me to likely be an example of a characteristic that Mr O identified in both parents: namely, a need to be in control. He appears to be unable to accept even the possibility that the child may suffer from a particular issue unless he observes signs of it himself. Further, even if he does observe an issue, it is clear that he places all responsibility for the same at the feet of the mother and disavows completely any suggestion that anything that he might do in his parenting of the child could contribute to the issue.
542. I accept the mother's evidence about the absence of communication between the parents about issues such as how to deal with the child's complaints to her about difficulties associated with his toileting. I accept that the father said the child did not suffer from the same difficulties whilst in his care. I also accept that, from the father's point of view, this is the end of the matter: he does not seem to be able to fully appreciate that an issue experienced by a child in the care of one parent does not mean that it is only that parent's care that needs to be considered. This inability to realise that there may be issues in both households that contribute to the child manifesting the behaviours reported by the mother is, in my view, a further a significant limitation in the father's parenting.
543. In addition, even when there are events which have occurred in his home and which are known to him and which, objectively viewed, may well have contributed to (if not caused) the child's behaviours, the father is completely unable to acknowledge this: for example, he did not accept any responsibility for the child's attendance at the hospital on 27 February 2018; instead, his view is that the mother is 90 per cent responsible and Ms M is 10 per cent responsible for this. He appeared completely unable to even countenance that the child's exposure to the events of 21 January 2018 in his home and, more contemporaneously, the child's complaints on 23 February 2018 to him about X's behaviour toward him could have, in any way, contributed to the child's overwhelming and uncontrollable distress on the day of his admission to hospital. That this is the case persuades me that it is more likely than not that the father's capacity to meet and address the child's emotional needs is significantly deficient.
544. It is clear the paternal grandmother shares in the father's approach to such issues; her evidence was that she believed the mother was responsible for the child's hospitalisation and that the father was not, in any way, responsible for this.
545. A further example of the manner in which any future issues involving the child would be likely to be dealt with by the father can be found in the manner in which he (and Ms V) approached the issue of whether X had intended to film himself kissing the child. It became apparent during the father's cross-examination that, despite nine year old X having said *nothing* to suggest that he intended to film himself trying to kiss the child, the father and Ms V sat him down and specifically asked him whether he was trying to make a movie of him trying to kiss the child: that is, the *only* suggestion to nine year old X about the idea of filming came from Ms V (in the father's presence) asking him if he intended to take a film of him kissing the child. Further, it was also apparent that X's involvement in this discussion was limited to him answering "yes" to the words put to him by his mother: that is, he did not offer an independent version at all and he did not in fact actually say anything to suggest that he had intended to film anything. The father also accepted during his cross-examination that X never told him and Ms V that he was making films for his father (Mr Z): rather, that was the father's idea and based on his own suspicions.
546. Given the father's evidence, during cross-examination, that he deemed that the fact of the police attending at his home on 21 January 2018 in response to Ms V's call to them and her report that she was being assaulted was not relevant to the court's consideration of the parenting proceedings, I am confident he would not report any future event of such nature to police or any other authority. Given her evidence during cross-examination, I am not at all confident that Ms V would make any future complaint to police even if the circumstances warranted the same.
547. Further, I consider that there is a real risk that, if the child continues to be exposed, via spending regular and significant time in his father's care, to the attitude expressed by the father and Ms V (and not really contradicted by the paternal grandmother) to the effect that a complaint to police of being assaulted in the home is nothing more than a "tiff", is of no real significance, is insignificant and/ or is to be regarded as something which is not uncommon in relationships, he may well grow to think that this is correct. I am not persuaded that the formulation of such a view is something which is in the child's best interests.
548. Whilst Ms V has been involved in the child's life since the start of her relationship with the father, it is clear that his (the child's) behaviour toward her children has caused significant conflict and difficulties within the home she shares with the father. I accept as likely that she has, on occasion, told

the child that he is responsible for the arguments between herself and his father – a statement which is unlikely to have diminished his anxiety; I also accept that the child’s behaviour toward Y and X in grabbing at their genitals is a behaviour that certainly caused conflict between Ms V’s household and Mr Z’s household. Neither Mr Z nor the father set an appropriate example to the child (or to X and Y) in the manner in which they communicated about that issue.

549. The overall impression I was left with following the evidence led earlier this year was that the father’s household is one in which there is a lot of arguing and friction between the children; where the father defends the child’s behaviours and is unlikely to countenance criticism of them; where one of Ms V’s children does not like the father; where the father takes issue, on occasion, with Y (or X’s) behaviour toward the child and seeks to chastise them – including by chasing X down the hall and threatening to pull his hair (which caused Ms V to get up from her chair and intercede).
550. I was certainly not left with the impression that the relationships between Y, X and the child are free from frictions and conflict; I was not left with the impression that the child’s time with his father and Ms V and her children proceeds smoothly; in fact, it seemed highly likely to me that there may well be many occasions when the child is taken away by his father to spend time with the paternal grandmother in order to diffuse the tensions in the home.
551. Given the paternal grandmother’s evidence that she continues to think that the mother is not fit to parent the child, I accept as much more likely than not that there have been occasions on which the paternal grandmother has expressed her very critical view of the mother as a person and as a parent to others; I also accept it is highly likely that some of these negative comments have been made when the child has been present. For example, I accept the mother’s evidence that the paternal grandmother told her on 11 August 2013 that a speech pathologist was horrified the child was still using a dummy (noting that, when he was six years of age, *both* parents were giving him a bottle at night to assist him to settle) and told her that “you are not a very good mother”:[406] that, on an occasion in September 2014 when she was late to changeover and the child was upset, the paternal grandmother yelled to her that “he’s fed up with you being late again”:[407] and that, in October 2014, she heard the mother tell the child at a changeover that “your mother’s a big fat pig.” [408] I also accept that it is much more likely than not that there have been occasions on which the paternal grandmother has told the mother to “just piss off”.
552. I also note that the paternal grandmother admitted that she had yelled at the mother at changeovers and that she had called the mother “a fat pig” three times on one occasion within the child’s hearing.
553. I accept that, despite these behaviours and the paternal grandmother’s unyieldingly critical attitude toward her, the mother has attempted to have a working relationship with the paternal grandmother; I accept as highly likely that she has done so because her lack of personal support in Australia is such that she has had no-one else to call upon to assist with the child’s care at times. I think it highly likely that having to engage with the paternal grandmother, whilst knowing her views of her, will have assisted the mother to deal with her anxiety and the depressive symptoms from which Dr P assessed her to suffer.
554. I accept the mother’s evidence that, despite calling on the paternal grandmother to assist her on occasions, she does not trust that the paternal grandmother will not behave aggressively toward her; I am not persuaded in this case that the fact of the mother calling on the paternal grandmother for assistance indicates that the very poor relationship between them has really improved in any way or to the extent that the mother feels in any way supported in her parenting of the child by the paternal grandmother’s actions.
555. At trial in March 2017, the paternal grandmother said she believed the mother had mental issues; she explained that the mother was “completely obsessive about everything” including the child; she echoed the father’s contention that the mother administered medication to the child which he did not need and when there was absolutely nothing wrong with him.
556. At trial in March 2017, the paternal grandmother said she had previously detested the mother, but had moved on. However, during her evidence in May 2018, the paternal grandmother said she thought the mother was the kind of woman to manipulate the father to become upset to assist her case to get the child into her care and to get more property; she also said that she did not think that the mother was a very good person. Such views do not persuade me that the paternal grandmother’s detesting of the mother is a thing of the past. I do not accept her evidence that she has ‘moved on’ vis-à-vis her attitude toward the mother and I consider that she continues to hold an overwhelmingly negative and critical view of the mother and her parenting capacity.
557. I also note that the paternal grandmother supported a significant reduction in the child’s time with his mother during school term (to two nights per fortnight from the current nine nights per fortnight) on the basis of her view that that would be a good idea for him.
558. Lest it be thought that there is any respite for the child from exposure to the paternal family’s critical view of his mother and her care of him, I note that Ms S (the father’s sister) said that she believed the mother was an unfit mother; that her choices about issues relating to the child are not healthy; she thought the mother’s psychiatric condition might play a part in her decision making process.

The mother: the extent to which she has been involved in the child’s life and fulfilled her obligation to maintain him; her capacity to meet the child’s needs; her attitude to the child and the responsibilities of parenthood; her attitude to the child’s relationship with his father and other members of his extended paternal family; her proposal that the child relocate with her to live in the United Kingdom[409]

559. I accept that the mother has played an active role in the child’s life; I also accept that she has discharged her parental responsibility to maintain him when he is in her care. I accept that she loves the child and that the child loves her. I am not remotely persuaded that she is not “fit” to parent the child.
560. I note that the mother said she wanted to relocate with the child to live in the United Kingdom because she feels isolated in Australia and has never settled in this country. She said that despite making the best of living here that she could, she does not have any family or childhood friends here. [410] I note she expressed this sentiment to Dr P in December 2016. She also said that the father’s behaviours toward her generally (including those occasions when he threatened to withhold the child from her care and implemented his threat) have impacted negatively upon her health and emotional functioning; she also said that she has struggled to cope with the circumstances of her post-separation interactions with the father and members of the extended paternal family without family support in this country. I accept her evidence in this respect.
561. I note that, when she spoke with Mr O in February 2017, the mother told him she was very homesick: he said she became distressed and cried. She told him about the stressors to which she was exposed as a result of the parenting dispute with the father, the deterioration in her health, the reduction in her income and in her quality of life. She also expressed concern that, if she was required to leave her home in Australia (but not be able to relocate) she would likely lose her business –as she operates it from there. She said that another reason which underpinned her desire to relocate the child to live in the United Kingdom was her desire to reduce his exposure to the conflict over parenting issues.[411] I accept that the mother was honest and genuine in expressing this desire to Mr O.
562. I accept that, if the mother is permitted to relocate the child to live with her in the United Kingdom, she and the child would be able to live in a property owned by the maternal grandmother on an indefinite basis.[412] I also accept that she would ensure that the child receive appropriate education and that his other extra-curricular needs are met.
563. I accept that the mother will likely feel more supported in her parenting of the child if she is able to live with him in the United Kingdom. I also accept that, if the Court concludes that it is not in the child’s best interests to relocate to live in the United Kingdom, she will remain living in Australia so that she can parent him here.

564. I also accept that the mother is genuine in expressing her view that, if she is able to move the child to live with her in the United Kingdom, she will feel more supported in her parenting of him and will be shielded from the parental conflict which has accompanied the child's parenting and which has deleteriously impacted upon her functioning; the child will be exposed to less parental conflict (and, I infer, will be better shielded from the consequences of exposure to such conflict) and he will be protected from the risk of exposure to the father's anger and the paternal family's extremely negative view of her as a person and parent.
565. I accept the evidence given by Dr P (during cross-examination by Ms Oakley) to the effect that, for a person (such as the mother) who has been diagnosed as suffering from a major depressive disorder with features of chronic anxiety, a continuance of exposure to significant conflict and acrimony constitutes a very serious risk for the exacerbation and maintenance of the condition; I accept his evidence to the effect that continued exposure to such significant conflict and acrimony would mitigate against the resolution of the mother's condition. I also accept his evidence to the effect that, depending on the level of the stressors caused by the acrimony, continued exposure to significant conflict and acrimony would also result in a risk of a severe deterioration in the mother's functioning. The latter cannot be thought in any way to be beneficial for the child.
566. I accept, without reservation, Dr P's evidence that, given the conditions from which he had diagnosed the mother to suffer, she would function better without exposure to the degree of conflict which appeared apparent in this matter. I also accept, given that the child has displayed significant anxiety himself on occasion, Dr Q's diagnosis of him and his functioning and that it appeared that the child may well be personally predisposed toward anxiety, this likely consequence is even more significant for the child's care and well-being.
567. Whilst the mother said that her physical health may well improve if she return to live in the United Kingdom, there is no expert evidence before the Court to persuade that such a move is imperative for this reason.
568. Whilst the father has advanced that the mother's main motivation in seeking to relocate the child to live with her in the United Kingdom is connected with what he said is her greed and her desire to "get everything" in a financial sense, I am not persuaded that this is the case. Similarly, I do not accept that the mother's motivation in seeking that the child live primarily with her (whether in Australia or in the United Kingdom) is because she wants to obtain a more favourable result in the yet to be resolved property settlement proceedings. That the father was intent on conveying his view that this is the case speaks more about his attitude toward the mother than about the mother's attitude toward the child.
569. I think it much more likely than not that any change in the father's expressed attitude toward being supportive of the mother in her parenting of the child – for example, by saying that he would try to understand her position and concerns about the child's health – was significantly (if not completely, given his consistently expressed views about her) linked to the mother's proposal that the child relocate to live in the United Kingdom and the realisation that his case in opposing such a course was better advanced by saying he would support the mother; I am not persuaded that he has actually changed his stance about the mother or that he has actually changed any of his views about her parenting or that he has actually changed any of his critical and dismissive opinions of her.
570. I reach the same conclusion about the attitudes, views and opinions of the paternal grandmother and Ms V toward the mother.
571. I accept that the mother has been seen by Mr O to act entirely appropriately toward the child and that the child has responded positively to her interactions with him. Whilst the mother has been criticised for the number of attendances the child had on various medical practitioners whilst in her care (as summarised at least in part earlier), nothing in the evidence before me actually establishes that all of these attendances were unnecessary.
572. Whilst the notes of some attendances on occasion record that there did not seem to be much adverse in the child's presentation at the time of the consultation, I am not persuaded that the mother (assessed by Dr P as manifesting anxiety) acted other than out of genuine concern for the child's health and in order to ensure that it was maintained.
573. I also note that it is accepted that the orders made by Judge Baumann on 1 September 2016 had the desired effect of reducing the child's attendances on different medical practitioners and that, save for on an occasion (outlined above), the mother complied with the same. I also note and accept the mother's evidence to the effect that the child's health was unremarkable for the balance of 2017 and into this year in that he had experienced much less ill-health and had not needed to attend his GP as often.
574. Whilst the mother was criticised by the father for her actions in bringing the child with her to the Registry of the Court when she attended to collect papers (at which time, coincidentally, the father was in attendance there too), I accept that she just dropped in to the Registry and told the child she was just collecting papers. Whilst it may well be – as the father noted – that the child could have read the sign at the entrance to the building, I am not persuaded that the mother's actions were necessarily harmful to the child in circumstances where, as Mr O pointed out, he is clearly aware that his parents are in dispute about his appropriate parenting regime.

Attitude to the father and paternal family generally

575. I accept the mother's evidence to the effect that, during her relationship with the father, he was frequently verbally derogatory of and toward her; I accept that, on occasions, he called her a "fucking bitch" or "dickhead"; that he told her to "drop dead" or said "you're a fucking idiot." The tenor of the communication between the father and Mr Z about the issue of the child's touching of Y and X clearly establishes that the father is certainly capable of using such terms in his discourse with others.
576. I accept as more likely than not that, during the relationship, there were occasions on which the father pushed past the mother during arguments between them; I also accept that it is quite likely that, if the father was angry enough during such arguments, he raised his fist toward the mother on occasions.
577. I accept that it is likely that, on an occasion, the mother told police that she wanted the father arrested for breaching the Domestic Violence Order so that she would have a better chance of having the Order made permanent. I am not persuaded that, in acting as she did, the mother was doing more than exercising her rights at law.
578. I accept that the mother was truthful in her evidence at trial when she said that, from her perspective, the father and the paternal grandmother are volatile and unpredictable and truly hate her and that she believes that, on occasion, the father's hatred of her "blinds" him in his approach to thinking about the child and matters that may be beneficial for him. I am not persuaded that she has arrived at these views on unreasonable grounds.
579. I also accept that the mother did not believe the father and the paternal grandmother (and Ms V) when they said, during their evidence that, whilst there had been problems between them in the past, they had moved on and that the paternal grandmother, in particular, was there to assist her. As I have already remarked, I do not accept their assertions in this respect either.
580. Whilst it may, at first blush, appear inconsistent with her evidence as outlined above, I accept the mother was being truthful when she said in March 2017 that she trusted that the father would care for the child when the child was with him. By this I took her to mean that the father would not deliberately harm the child, although I understood her evidence following the events of 2018 to be that she remained concerned that, when angry, the father might hit the child or physically discipline him or act in a way that might cause him to be exposed to harm though exposure to domestic violence.
581. I accept that the mother's actions in arranging for the car the father had been using since separation (which was owned in her name and in respect of which she had been receiving information from the bank about repossession) to be repossessed at a time he was using it for work at a place distant from his home meant that he was left without a way to travel home; I accept that she acted as she did without thinking about the implications for the

father and his employment that day; I also accept that this is a further manifestation of the absence of concern that either parent has for the well-being of the other. I also consider it highly likely that the mother's actions in this respect simply provided further fuel for the fire of the father's significant dislike of her.

582. I accept that there were occasions in about 2014 when the mother administered medication (such as antibiotics and an asthma inhalers) to the child at changeover. I accept that, from her perspective, this was in response to her concern that the father ignored her attempts to tell him about matters such as when she had last administered the medication; I also accept that, from the father's perspective, her actions in administering the medications was her "rubbing his face" in the fact that she continued to give the child medication. The fact of each parent's account of these events and the manner in which each interpreted the actions of the other and reacted to the same provides yet another example of the futility of an expectation that they will be able, in the future, to act co-operatively to meet the child's needs.
583. Whilst Counsel for the Independent Children's Lawyer submitted in March 2017 that the Court would be concerned about the manner in which the mother had failed to respond to Dr P's recommendations, it is clear that she had only received his report very shortly before her affidavit material was required. I note that the mother's evidence during the 2018 tranche of the trial was that she had previously attended on Dr GI (a psychiatrist) on a handful of occasions over the preceding twelve months, with her last consultation occurring over six months earlier and that, whilst that medical practitioner had not provided her with a diagnosis, she had recommend medication, which she also recommended be managed by the mother's general practitioner. The mother said she currently takes fluoxetine (which she described as an "antidepressant type medication"). She explained that she had previously taken Duromine (which had a mood stimulant effect) but had ceased it on medical advice.
584. I accept that, after the March 2017 trial concluded, the mother attended on her psychiatrist with a copy of Dr P's report and discussed his conclusions. I accept her evidence that her psychiatrist discussed with her the potential medications she could take (give the other medications she takes). I accept the mother's evidence that, when she saw her psychiatrist, she was already attending on Dr HJ (a psychologist), whom she had first seen in about October 2016. I accept that the mother took a copy of Dr P's report to Dr HJ and that she continued to see her (until about the end of 2017) on occasions when Dr HJ was available; I accept it is likely that the mother saw Dr HJ on about half a dozen occasions during 2017. I accept that the mother stopped seeing Dr HJ toward the end of 2017 and started to see Dr IK (also a psychologist) from about January 2018. I accept that she provided Dr IK with a copy of Dr P's report and has discussed it with her and that she has seen the doctor about once every one to two months since then.
585. Given this evidence, I consider that the mother has (at least largely) taken up Dr P's recommendations to engage in therapeutic support. It follows that, at its highest, any risk that the mental health condition he assessed will adversely impact on her ability to appropriately parent the child is "low" – provided that she continues to engage with such therapeutic support.

The likely effect of any changes in the child's circumstances[413]

586. I accept that a move to live in the United Kingdom will likely increase the child's opportunity to develop a relationship with members of his extend maternal family including his maternal grandmother, aunt and cousins. I also accept, obviously, that such a move would significantly reduce his opportunity to continue his frequent physical interactions with his father, Ms V, X and Y, his paternal grandmother and members of his extended paternal family.
587. I note that, in telling Mr O in February 2017 of his opposition to the child relocating to live in the United Kingdom, the father said that, given that the child, Y and X had known each other since the child was about two and a half years old, it would be very hard on all three boys if they were separated.[414] Whilst this may well be the case, I also note the difficulties in the interactions between the child, Y and X more recently and the difficulties that the child's behaviour toward her children has caused to Ms V and to her co-parenting relationship with Mr Z.
588. Whilst a move to live in the United Kingdom would affect the nature of the relationship the child has with Y and X and Ms V, it is clear that he has an established relationship with these people – and, obviously, with his father and paternal grandmother. Given this, part of the required consideration is the likelihood of him being able to maintain such relationships if he was to live in the United Kingdom with his mother and only return to Australia to spend time with them annually. Whilst not ideal and certainly not optimal, I consider it more likely than not that he will be able to maintain a relationship of sorts with his father and paternal grandmother (and other members of the extended paternal family) if he lives in the United Kingdom; albeit that this relationship will inevitably be very different to that which currently exists.
589. Whilst it was suggested by Ms V that, for the child, a move to live in the United Kingdom with his mother might make him more anxious, there is no expert evidence to support such contention. In saying this, I note that the mother accepted in March 2017 that, from one perspective, a move to the United Kingdom would be a negative change for the child, could potentially have a significant impact on him and could potentially increase the observed anxieties that Dr Q commented upon in his report.
590. However, any move would, obviously, occur with the support of his mother, the parent with whom the child has been living for the majority of the time more recently. Given the mother's acceptance of the recommendations made by Dr P about her engagement with appropriate therapeutic supports, I am not persuaded that the child is at risk in her care, whether this care is provided in Australia or the United Kingdom.
591. I accept that, given the history of this matter, there is a risk that, if the child moves to live in the United Kingdom with his mother, there may be significant problems in him maintaining his ongoing relationship with his father and paternal grandmother. Whilst the history of conflict certainly suggests that there may be difficulties in the parent's efforts to negotiate the time the child would spend with his father in Australia, a continuation of any permutation of the previous parenting arrangements (by which the child has transitioned between his parents' households on a regular basis) is highly likely – in fact, inevitably in my view – to be attended by his ongoing exposure to the significant and long-standing parental conflict.
592. Consequently, I consider that one of the positive features of the child moving to live in the United Kingdom with his mother is that this would significantly minimise his ongoing exposure to the toxic parental conflict which shows absolutely no signs of abating.
593. Whilst, as Mr O opined in his February 2017 report, the history of parental withholding in this matter does not inspire confidence that a relocation will be accompanied by a co-operative parenting arrangement (particularly given the resultant distance between the parents and assuming that one parent had the most say in decisions about the child)[415] the reality is that living in the same city has not inspired a co-operative parenting arrangement: it is difficult to see that changing into the future, irrespective of where the child is to live. It is also difficult to see how the co-parenting relationship between these two parents could get any worse.
594. Given this, the only thing that can be done, in my view, is to make those orders which are most likely to shield the child from exposure to the same and, by doing so, to attempt to prevent him from suffering the adverse consequences spoken of by Dr Q.

Family violence and family violence orders[416]

595. When the parties first saw Mr O in October 2013, it was apparent that each alleged domestic violence had been perpetrated by the other during the course of their relationship.[417] He records that police attended on one occasion: 18 May 2012. Mr O also records that each party denied being the perpetrator of domestic violence and asserted that the other committed significant domestic violence.
596. The mother originally successfully applied for a temporary protection order; it was due to be heard on 31 October 2013. The father unsuccessfully applied for a protection order. Mr O understood from information provided to him by the father in October 2013 that the father anticipated being charged with breaching a protection order as a consequence of text messages sent by him to the mother.[418]

597. In her interview for the second Family Report, the mother gave Mr O a Magistrates Court document dated 16 January 2014: this was a “Verdict and Judgment Record” which noted that the father entered a plea of guilty to a contravention of a Domestic Violence Order between 2 July 2013 and 14 August 2013; a conviction was not recorded.[419] The mother also told Mr O that she and the father both consented to mutual Domestic Violence Orders in March 2014.
598. The mother said that, as at January 2017, the father had made no further applications for a protection order (in the capacity of an aggrieved) since the application made on 28 April 2016.

Parental relationship

599. In the November 2013 Family Report, Mr O noted that the parents were able to remain in the same area and focus on the child without any overt antagonism.[420] Despite this, he recorded that, as between them, “at the moment, communication is miserable.” He considered the situation a long way from an effective shared parenting arrangement.[421]
600. During his March 2015 interview (for the second Family Report), the father told Mr O he proposed an order for sole parental responsibility “simply because we cannot function”: by this, he meant that he and the mother had no relationship or communication.[422] During her March 2015 interview, the mother told Mr O that she had 15 cameras around her home, which allowed her to feel more protected; she said she had been “petrified” since the father “broke into her house” on 26 June 2013.[423]
601. Given the information provided to him by both parents, it is unsurprising that Mr O opined in April 2015 that the level of trust between the parties was absolutely minimal – despite each party engaging in a post-separation parenting program. He also said (presciently) that it was most unlikely that the situation was going to change markedly in the future with respect to co-parenting capacity. He noted that the father then held an extremely dim view of the mother (and was convinced that she would continually try to set him up,) whilst the mother maintained that she continued to be fearful of engaging with the father (and clearly did not trust him).[424]
602. In December 2016, the mother told Dr P that, in her view, there had been no time after separation where she had been able to organise cordial, working post-separation parenting plans for the child with the father.
603. As at February/March 2017, Mr O accepted that consideration of equal shared care would require the Court to view the future of such an arrangement with optimism as with the history of conflict and litigation in this matter, it might be overly sanguine to expect that things will change, even with the apparent willingness of the father, as he expressed at the interview.

Parental Responsibility

604. When making a parenting order, I am bound to apply a presumption that it is in the child’s best interests that his parents have equal shared parental responsibility for major long term issues relating to him.[425] The presumption is rendered inapplicable if the Court is satisfied that there are reasonable grounds to believe that either of the child’s parents have engaged in abuse of him or another child or family violence,[426] or may be rebutted by evidence that satisfies the Court that it would not be in his best interests for his parents to have equal shared parental responsibility for him.[427]
605. I consider that the presumption contained in s 61DA of the Act does not apply in this case. Consequently, the power to make parenting orders pursuant to s 65D of the Act is ‘at large’, albeit subject always to the child’s best interests being the paramount consideration.[428]
606. In determining whether it is in the child’s best interests that an order requiring his parents to share parental responsibility is made, it must be remembered that, if the Court makes an order that the parties share parental responsibility for him and the exercise of that parental responsibility involves making a decision about major long term issues in relation to him, such order requires the decision to be made jointly by the parties.[429] Additionally, such order also requires that each party consult the other in relation to the decision to be made about that issue and make a genuine effort to come to a joint decision about it.[430]
607. Having regard to the contents of these Reasons, it would be completely perverse to conclude that it is in the child’s best interests for his parents to have equal shared parental responsibility for him. The submission made by Counsel for the Independent Children’s Lawyer in support of such an order (accompanied by the requirement that the parents attend a parenting programme to assist them to reach joint decisions) is inexplicable.

Concluding discussions about those parenting orders which are in the child’s best interests

608. Whilst I note the opinions expressed by Mr O in his February 2017 Family Report about the consequences for the child’s time with his mother if certain evidence given by Dr P is accepted, I have already expressed my conclusion that, given the mother’s actions after receiving Dr P’s report, any assessment of any risk she might have been regarded to pose to the child is “low”.
609. I accept that the mother has taken proactive steps to address the anxiety and depression from which Dr P has assessed her to suffer. Given Mr O’s evidence to the effect that the child could suffer significant emotional harm (which may result in behavioural, emotional, social, attentional and academic problems that can then be manifest in a variety of psychological/psychiatric difficulties or vulnerabilities[431]) if he lived with a parent who is excessively anxious, it is appropriate that the mother continue to engage with appropriate therapeutic supports and continue to receive appropriate medical interventions in aid of assisting her to manage her anxiety. It is in the child’s best interests that orders ensure that she continue to engage into the future, as I accept she has to date.
610. I am not persuaded that it is in the child’s best interests for there to be an equal time equal shared care arrangement; I am not persuaded that such a regime will in fact result in an amelioration of the conflict between the parents because, in my view, their conflict is about matters which include, but are not limited to, the time the child spends with each of them.
611. Given the father’s attitude to the issue of the child’s anxiety, I am not persuaded that it is likely that frequent integration with his father will assist him to deal with his anxiety and the manifestations of the same.
612. Having regard to all of the matters outlined above and already the subject of significant discussion, I consider that the child’s best interests will be met by him being primarily parented by his mother. I consider that she has the greater capacity to address and meet his emotional and physical needs and that she is more attuned to these than the father. I accept that she recognises the importance to the child of maintaining an ongoing relationship with his father.
613. I consider that any arrangement whereby the child lives primarily with his father would likely increase his exposure to his father’s occasional outbursts of anger, attitudes about domestic violence and to his vitriolic and significantly derogatory attitude about his mother. It would see the child primarily cared for by the parent whom, in my view, placed his own needs for secrecy ahead of the child’s need for the medical staff at the hospital earlier this year to be told about all events which might have, in any, way contributed to the level of distress the child displayed on that occasion. I am not persuaded that such a parenting regime is something that will be in the child’s best interests.
614. As touched upon earlier, the child has experienced a range of different care arrangements; his time with each parent has been different at different times of his life; despite this, the one constant has been the significant parental conflict and his exposure to the same, either directly or indirectly. I consider it highly likely that his hospitalisation this year was the result – at least in some way – of the impact on him of his longstanding exposure to his parents’ conflictual relationship.

615. I consider that the child's best interests require that he be protected from future exposure to this parental conflict which, as noted, shows absolutely no signs of diminishing. I have concluded therefore that, even taking into account the negative impacts on the child of a significant change to his current parenting regime and the likely negative impact on his relationships with his father, paternal grandmother and other members of the paternal family which will inevitably accompany a relocation to the United Kingdom, the benefits of such a move – being guaranteed respite from exposure to parental conflict and the opportunity to be parented by his mother whose functioning will not be detrimentally affected by her exposure to and engagement in the ongoing parental conflict- are such as to outweigh the detriments.
616. I also consider that the circumstances of this case are certainly such as to persuade that it is preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child: I consider such order to be one which permits the child to be relocated to live with the mother in the United Kingdom and to spend time with his father in Australia in the manner outlined in the Orders set out at the commencement of these Reasons. I consider that, whilst a move to the United Kingdom will significantly impact on the child's existing relationships with members of his paternal family, his long term best interests require that this is the price that must be paid in order to ensure he is protected from the likely consequences of continuing exposure to the unrelenting parental conflict.

I certify that the preceding six hundred and sixteen (616) paragraphs are a true copy of the reasons for judgment of the Honourable Justice Hogan delivered on 13 July 2018.

Associate:

Date: 13 July 2018

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- [1] On the father's account.
[2] On the mother's account.
[3] Which encompass both an application for parenting orders and an application for property adjustment orders pursuant to s 90SM of the *Family Law Act 1975* (Cth).
[4] As outlined in Submissions on behalf of the Applicant father filed 19 June 2018.
[5] In March 2017, as outlined in his Case Information document filed by leave on 6 March 2017.
[6] As outlined in Submissions on behalf of the Respondent mother filed 13 June 2018.
[7] As outlined in the Outline of Case filed 27 February 2017.
[8] Child Inclusive Conference Memorandum by Ms R dated 21 March 2018 at p. 4.
[9] Affidavit of the father filed 7 April 2015 at [113].
[10] Affidavit of the father filed 7 April 2015 at [335(b)].
[11] Affidavit of the father filed 16 February 2018, Annexure "1".
[12] Affidavit of the father filed 16 February 2018 at [2].
[13] Exhibit 10, p. 3.
[14] Affidavit of the father filed 6 April 2018 at [24].
[15] Transcript of 19 April 2018, p. 42 ln 10 – 25.
[16] Affidavit of the mother filed 8 April 2015 at [239].
[17] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [5.15].
[18] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [5.14].
[19] Exhibit 7.
[20] Whilst the mother said she sought the father's consent to take the child to Ms BC, she did not have his written consent before she took the child to see her.
[21] Exhibit 13.
[22] Exhibit 13.
[23] Affidavit of the mother filed 9 April 2018 at [96].
[24] Written Submissions provided 13 June 2018 at [28].
[25] Exhibit 13, p. 1.
[26] Exhibit 13, p.4.
[27] Exhibit 13, p.4.
[28] Affidavit of Ms S filed 26 August 2013 at [18].
[29] Affidavit of the mother filed 6 May 2018 at [5] – [7].
[30] Affidavit of the mother filed 8 April 2015 at [371].
[31] Affidavit of the mother filed 8 April 2015 at [372].
[32] Affidavit of the father filed 8 February 2017 at [403(cdvi)], p. 40.
[33] Affidavit of the mother filed 8 April 2015 at [375].
[34] Affidavit of the mother filed 8 April 2015 at [377].
[35] Exhibit 1 (Tender Bundle, page 48).
[36] Affidavit of the mother filed 8 April 2015 at [380].
[37] Exhibit 1 (Tender Bundle, page 48).
[38] Transcript (8 March 2017) p. 180 ln 40-43.
[39] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [6].
[40] Affidavit of the father filed 8 February 2017 at [403cdxv], p.40.
[41] Affidavit of the mother filed 8 April 2015 at [389].
[42] Affidavit of the mother filed 8 April 2015 at [390].
[43] Affidavit of the mother filed 8 April 2015 at [391].
[44] Affidavit of Ms W filed 14 February 2017 at [64].
[45] Affidavit of Ms W filed 14 February 2017 at [64]-[65].
[46] Affidavit of the father filed 7 April 2015 at [335(b)].
[47] Affidavit of the father filed 7 April 2015 at [335(b)].
[48] Affidavit of Ms S filed 26 August 2013 at [34(b)].
[49] Affidavit of Ms S filed 26 August 2013 at [19].
[50] Affidavit of the mother filed 6 May 2018 at [18].
[51] Affidavit of the mother filed 8 April 2015 at [185].
[52] Affidavit of the mother filed 8 April 2015 at [187].
[53] Affidavit of the mother filed 8 April 2015 at [397].
[54] Affidavit of the mother filed 8 April 2015 at [399].
[55] Affidavit of the mother filed 8 April 2015 at [37].
[56] Affidavit of the father filed 8 February 2017 at [299], page 59.
[57] Affidavit of the mother filed 8 April 2015 at [296].
[58] Affidavit of the mother filed 8 April 2015 at [297].
[59] Affidavit of the mother filed 8 April 2015 at [301].
[60] Affidavit of the mother filed 8 April 2015 at [302].
[61] Affidavit of the mother filed 8 April 2015 at [306].
[62] Affidavit of the mother filed 8 April 2015 at [307].
[63] Affidavit of the mother filed 8 April 2015 at [44].
[64] Affidavit of the father filed 29 August 2016, Annexure 7.
[65] Affidavit of the mother filed 8 April 2015 at [310].
[66] Affidavit of the father filed 8 February 2017 at [114], p. 14.
[67] Affidavit of the mother filed 8 April 2015 at [236].
[68] Affidavit of the mother filed 8 April 2015 at [239].
[69] Affidavit of the mother filed 8 April 2015 at [244].
[70] Affidavit of the mother filed 8 April 2015 at [245].
[71] Exhibit 7, p. 2.

[72] Affidavit of the mother filed 8 April 2015 at [246].
[73] Exhibit 7, p. 5.
[74] Affidavit of the mother filed 8 April 2015 at [247].
[75] Affidavit of the mother filed 8 April 2015 at [251].
[76] Exhibit 1 (Tender Bundle, page 48).
[77] Affidavit of the mother filed 8 April 2015 at [253].
[78] Affidavit of the mother filed 8 April 2015 at [255].
[79] Affidavit of the mother filed 8 April 2015 at [256].
[80] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [16].
[81] Affidavit of the father filed 8 February 2017 at [168], p. 19.
[82] Exhibit 1 (p. 45 – 51).
[83] 15 February 2014.
[84] Affidavit of the father filed 8 February 2017 at [174], p. 19.
[85] Affidavit of the mother filed 8 April 2015 at [265].
[86] Affidavit of the mother filed 8 April 2015 at [268].
[87] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [19].
[88] Affidavit of the father filed 8 February 2017 at [43].
[89] Affidavit of the father filed 8 February 2017 at [188], p. 20.
[90] Affidavit of the mother filed 8 April 2015 at [288].
[91] Affidavit of Mr O filed 13 December 2013, Annexure “PJ-2” at [7.2] – [7.3], [7.7].
[92] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [28].
[93] I note that the mother’s evidence did not deal with these assertions and that the paternal grandmother was not cross-examined about them at the trial.
[94] Affidavit of the mother filed 8 April 2015 at [405] – [406].
[95] Exhibit 1 (Tender Bundle, page 44).
[96] Affidavit of the mother filed 8 April 2015 at [312].
[97] Affidavit of the father filed 8 February 2017 at [195] – [200], p. 21.
[98] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [31].
[99] Affidavit of O filed 13 December 2013, Annexure “PJ-2” at [2.12].
[100] Affidavit of O filed 13 December 2013, Annexure “PJ-2” at [2.13].
[101] Affidavit of O filed 5 May 2015, Annexure “PJ-01” at [8.16].
[102] Affidavit of O filed 13 December 2013, Annexure “PJ-2” at [8.15].
[103] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [30].
[104] Affidavit of the mother filed 8 April 2015 at [355].
[105] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [42].
[106] Filed 8 April 2015 and 17 February 2017 respectively.
[107] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [43].
[108] Affidavit of the father filed 8 February 2017 at [276], p. 28.
[109] Affidavit of the father filed 8 February 2017 at [247], p. 26.
[110] Affidavit of the father filed 8 February 2017 at [248] – [250], p. 26.
[111] Affidavit of the mother filed 8 April 2015 at [537].
[112] Affidavit of the father filed 8 February 2017 at [254] – [255], p. 26.
[113] Affidavit of the father filed 8 February 2017 at [257] – [258], p. 27.
[114] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [46].
[115] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [44].
[116] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [48].
[117] Affidavit of the father filed 8 February 2017 at [251], p. 26.
[118] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [34].
[119] Affidavit of the mother filed 8 April 2015 at [314].
[120] Affidavit of the mother filed 8 April 2015 at [465].
[121] Affidavit of the father filed 8 February 2017 at [207], p. 22.
[122] Affidavit of the mother filed 8 April 2015 at [466].
[123] Affidavit of the father filed 8 February 2017 at [446], p. 44.
[124] Affidavit of the father filed 8 February 2017 at [451], p. 44.
[125] Affidavit of the father filed 8 February 2017 at [455], p. 44.
[126] Affidavit of the mother filed 8 April 2015 at [411].
[127] Affidavit of the mother filed 8 April 2015 at [412].
[128] Affidavit of the mother filed 8 April 2015 at [413].
[129] Transcript 7 March 2017, p. 50 ln 36 – p. 51 ln 29.
[130] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [49].
[131] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [50].
[132] Minute of Orders sought by the mother filed 17 February 2017.
[133] Affidavit of the father filed 8 February 2017 at [296], p. 30.
[134] Affidavit filed 2 February 2015 and included in the list of affidavits relied on by the mother: List of Documents filed 14 February 2017.
[135] Affidavit of Mr TT filed 2 May 2015 at [5].
[136] Affidavit of the father filed 8 February 2017 at [256], p. 26.
[137] Affidavit of the father filed 8 February 2017 at [258], p. 27.
[138] Affidavit of the father filed 15 April 2016 at [4] – [5].
[139] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [38].
[140] Affidavit of the father filed 15 April 2016 at “Annexure 2”.
[141] Affidavit of the father filed 15 April 2016 at “Annexure 2”.
[142] Affidavit of the father filed 8 February 2017 at [270], p. 28.
[143] Affidavit of the mother filed 17 February 2017 at [224].
[144] Affidavit of the mother filed 8 April 2015 at [335].
[145] Affidavit of the mother filed 8 April 2015 at [336].
[146] Affidavit of the mother filed 17 February 2017 at [324].
[147] Affidavit of Ms Rabkin Snr filed 7 April 2015 at [39] – [40].
[148] Affidavit of the mother filed 17 February 2017 at [138].
[149] Affidavit of the mother filed 17 February 2017 at [143].
[150] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.5].
[151] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.6].
[152] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [3.20].
[153] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [6.7].
[154] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [6.8].
[155] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [7.35].
[156] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.18].
[157] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.18].
[158] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.26].
[159] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.6].
[160] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.9].
[161] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.10].
[162] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.10].
[163] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.17].
[164] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.22].
[165] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.7].
[166] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [4.8].
[167] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [4.37].
[168] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [4.44].
[169] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [4.36].
[170] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.8].
[171] Affidavit of Mr O filed 5 May 2015, Annexure “PJ-1” at [8.28].

[172] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.24].
[173] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.30].
[174] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.31], [8.34].
[175] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.21].
[176] Affidavit of the mother filed 17 February 2017 at [26] – [27].
[177] Affidavit of the mother filed 17 February 2017 at [29]; Affidavit of the father filed 17 February 2017 at [431], p. 42.
[178] Exhibit 1 (Tender bundle, pp 27 – 31).
[179] Exhibit 8.
[180] Affidavit of the father filed 15 April 2016 at "Annexure 3".
[181] Affidavit of the father filed 15 April 2016 at "Annexure 3".
[182] Affidavit of the father filed 15 April 2016 at "Annexure 3".
[183] Exhibit 8.
[184] Affidavit of the mother filed 17 February 2017 at [210] – [211].
[185] Affidavit of the father filed 15 April 2016 at "Annexure 7".
[186] Exhibit 8.
[187] Affidavit of Mr LL filed 14 February 2017 at [15].
[188] Affidavit of Mr LL filed 14 February 2017 at [24].
[189] Affidavit of Ms W filed 14 February 2017 at [86(a)].
[190] Affidavit of Ms W filed 14 February 2017 at [86(a)].
[191] Affidavit of the mother filed 17 February 2017 at [36].
[192] Affidavit of the mother filed 17 February 2017 at [226].
[193] Affidavit of the father filed 8 February 2017 at Annexure "A3".
[194] Exhibit 1 (Tender Bundle, page 24).
[195] Affidavit of the mother filed 17 February 2017 at [118].
[196] Exhibit 8.
[197] Affidavit of the mother filed 17 February 2017 at [172].
[198] Items she said he used then to carry everywhere and use to soothe himself.
[199] Affidavit of the mother filed 17 February 2017 at [121] – [122].
[200] Affidavit of the mother filed 17 February 2017 at [74].
[201] Affidavit of the mother filed 17 February 2017 at [83].
[202] Affidavit of the mother filed 17 February 2017 at [75].
[203] Affidavit of the mother filed 17 February 2017 at [75], [76].
[204] Being 18 & 21 May, 17 July, 21 & 31 August, 2 & 7 September and 28 October.
[205] Affidavit of the mother filed 17 February 2017 at [149].
[206] Affidavit of the mother filed 17 February 2017 at [154].
[207] Affidavit of the mother filed 17 February 2017 at [155].
[208] Affidavit of the mother filed 17 February 2017 at [173].
[209] Affidavit of the mother filed 17 February 2017 at [163].
[210] Affidavit of the mother filed 17 February 2017 at [174].
[211] Affidavit of the mother filed 17 February 2017 at [43]; whilst the mother did not specify the date in her affidavit, the time was as prescribed by the order made 26 August 2013.
[212] Affidavit of the mother filed 17 February 2017 at [41] – [42].
[213] Affidavit of the mother filed 17 February 2017 at [77].
[214] Affidavit of Ms W filed 14 February 2017 at [81].
[215] Exhibit 1 (Tender Bundle, page 26).
[216] Affidavit of the mother filed 17 February 2017 at [209].
[217] Affidavit of the father filed 8 February 2017 at [349], p. 34.
[218] Exhibit 1 (Tender Bundle, p. 27 – 31).
[219] Affidavit of the mother filed 17 February 2017 at [80].
[220] Affidavit of the mother filed 17 February 2017 at [93].
[221] Exhibit 1 (Tender Bundle, page 12).
[222] Exhibit 1 (Tender Bundle, page 19).
[223] Exhibit 1 (Tender Bundle; page 19).
[224] Affidavit of the mother filed 17 February 2017 at [93].
[225] Affidavit of the mother filed 17 February 2017 at [93].
[226] Exhibit 1 (Tender Bundle; page 11).
[227] Affidavit of the mother filed 17 February 2017 at [53].
[228] Affidavit of the mother filed 17 February 2017 at [54].
[229] Affidavit of the mother filed 17 February 2017 at [86].
[230] Affidavit of the mother filed 17 February 2017 at [178].
[231] Affidavit of the mother filed 17 February 2017 at [183].
[232] Exhibit 1 (Tender Bundle; page 8).
[233] Exhibit 1 (Tender Bundle; page 8).
[234] Exhibit 1 (Tender Bundle; page 8).
[235] Affidavit of the mother filed 17 February 2017 at [56].
[236] Affidavit of the father filed 15 April 2016 at "Annexure 6".
[237] Affidavit of the father filed 15 April 2016 at [17].
[238] Affidavit of the mother filed 17 February 2017 at [31].
[239] Affidavit of the mother filed 17 February 2017 at [127].
[240] Affidavit of the mother filed 17 February 2017 at [135].
[241] Affidavit of the father filed 29 August 2016 at "Annexure 6".
[242] Exhibit 1 (Tender Bundle, page 7).
[243] Exhibit 1 (Tender Bundle, page 42).
[244] Affidavit of the mother filed 17 February 2017 at [190].
[245] Affidavit of the mother filed 17 February 2017 at [197] – [198].
[246] Affidavit of the mother filed 17 February 2017 at [199].
[247] Affidavit of the mother filed 17 February 2017 at [62] – [64].
[248] Affidavit of the mother filed 17 February 2017 at [228] – [229].
[249] Affidavit of Dr P filed 9 February 2017, Annexure "B".
[250] Affidavit of Mr Z filed 23 March 2018 at [5].
[251] Affidavit of Ms V filed 6 April 2018 at [23].
[252] Affidavit of Dr Q filed 21 February 2017.
[253] At the time of the assessment, the child was at a reading level of 15 (which is a late Year One expected level) and had a particular strength in mathematics: Affidavit of Dr Q filed 21 February 2017, Annexure "A".
[254] The mother's evidence at trial included that he had been diagnosed with anxiety by Ms Murray from "JK Group" in 2015.
[255] Affidavit of the mother filed 17 February 2017 at [207].
[256] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [2.14].
[257] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.6].
[258] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [5.12].
[259] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.7].
[260] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.13].
[261] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [7.31] – [7.32].
[262] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.16].
[263] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.16].
[264] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.16].
[265] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.15].
[266] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.2].
[267] Affidavit of the mother filed 8 April 2018 at [22].
[268] Affidavit of the mother filed 9 April 2018 at [124]: the dates specified by the mother appear incorrect in that 2 June 2017 was a Friday and 5 June 2017 was a Sunday.
[269] Affidavit of the mother filed 9 April 2018 at [161].
[270] Affidavit of the mother filed 9 April 2018 at [30].

[271] Affidavit of the father filed 6 April 2018 at [4].
[272] Affidavit of the father filed 6 April 2018 at [10].
[273] Affidavit of the father filed 6 April 2018 at [14].
[274] Affidavit of Ms V filed 16 March 2018 at [3].
[275] Affidavit of Ms S filed 13 March 2018 at [1].
[276] Affidavit of Ms S filed 13 March 2018 at [2] – [3].
[277] Affidavit of Ms Rabkin Snr filed 6 April 2018 at [3].
[278] Affidavit of Ms XY filed 6 April 2018 at [2].
[279] Affidavit of Mr XY filed 6 April 2018 at [2].
[280] Exhibit 12.
[281] Exhibit 12, p. 1.
[282] Affidavit of the mother filed 9 April 2018 at [31].
[283] Affidavit of Mr Z filed 9 April 2018 at [46] – [47].
[284] Affidavit of Mr Z filed 9 April 2018 at [48] – [49].
[285] Affidavit of Ms V filed 6 April 2018 at [25].
[286] Affidavit of Ms V filed 6 April 2018 at [7].
[287] Affidavit of the mother filed 9 April 2018 at [37].
[288] Exhibit 12.
[289] Exhibit 17.
[290] Exhibit 12.
[291] Affidavit of the mother filed 9 April 2018 at [44].
[292] Affidavit of the mother filed 9 April 2018 at [45].
[293] Affidavit of the father filed 16 February 2018 at [3].
[294] Affidavit of the mother filed 9 April 2018 at [32] – [33].
[295] Affidavit of the mother filed 9 April 2018 at [45] – [46].
[296] Exhibit 18.
[297] Affidavit of the mother filed 9 April 2018 at [47].
[298] Affidavit of the mother filed 17 February 2017 at [227].
[299] Affidavit of the mother filed 17 February 2017 at [228] – [229].
[300] Affidavit of the mother filed 17 February 2017 at [297].
[301] Affidavit of the mother filed 9 April 2018 at [48].
[302] Affidavit of the mother filed 9 April 2018 at [49].
[303] Affidavit of the mother filed 9 April 2018 at [50].
[304] Affidavit of the mother filed 9 April 2018 at [50].
[305] Affidavit of Mr Z filed 9 April 2018 at [56].
[306] Exhibit 11, page 1.
[307] Affidavit of Ms V filed 6 April 2018 at [27].
[308] Affidavit of Ms V filed 6 April 2018 at [28].
[309] Affidavit of the father filed 16 February 2018 at [1].
[310] Affidavit of the mother filed 9 April 2018 at [57].
[311] Affidavit of the mother filed 9 April 2018 at [58].
[312] Affidavit of the mother filed 9 April 2018 at [60].
[313] Exhibit 11, page 2.
[314] Affidavit of the mother filed 9 April 2018 at [62].
[315] Exhibit 18.
[316] Affidavit of the mother filed 9 April 2018 at [63].
[317] Affidavit of the mother filed 9 April 2018 at [64].
[318] Affidavit of the father filed 2 March 2018 at [3].
[319] Affidavit of the mother filed 9 April 2018 at [71].
[320] Affidavit of the mother filed 9 April 2018 at [72].
[321] Given that the child consulted with Dr CE on 15 February; the doctor told the mother on 20 February that the father had contacted her and told her to stop seeing the child; and the mother's evidence is that the texts were sent on 22 February 2018.
[322] Affidavit of the mother filed 9 April 2018 at [73].
[323] Affidavit of the father filed 6 April 2018 at [16].
[324] Affidavit of the father filed 6 April 2018 at [17].
[325] Affidavit of the father filed 6 April 2018 at [18].
[326] Affidavit of the father filed 2 March 2018 at [5].
[327] Affidavit of the mother filed 9 April 2018 at [75].
[328] Affidavit of the father filed 2 March 2018 at [6].
[329] Affidavit of the father filed 12 March 2018 at [52].
[330] Affidavit of the father filed 2 March 2018 at [15].
[331] Affidavit of the father filed 2 March 2018 at [16].
[332] Affidavit of the father filed 6 April 2018 at [19].
[333] Affidavit of the mother filed 9 April 2018 at [80].
[334] Affidavit of the father filed 2 March 2018 at [18] – [19].
[335] Affidavit of the father filed 6 April 2018 at [22].
[336] Affidavit of the mother filed 9 April 2018 at [41].
[337] Affidavit of the mother filed 9 April 2018 at [83].
[338] Affidavit of the mother filed 9 April 2018 at [85].
[339] Affidavit of the mother filed 9 April 2018 at [88].
[340] Affidavit of the mother filed 9 April 2018 at [88].
[341] Affidavit of the mother filed 9 April 2018 at [91].
[342] Affidavit of the mother filed 12 March 2018 at [66].
[343] Affidavit of the mother filed 9 April 2018 at [92] – [93].
[344] Affidavit of the mother filed 9 April 2018 at [98].
[345] Affidavit of the father filed 2 March 2018 at [29], "Annexure 1".
[346] Affidavit of the mother filed 9 April 2018 at [100].
[347] Affidavit of the mother filed 9 April 2018 at [103].
[348] Affidavit of the father filed 8 March 2018 at [3].
[349] Affidavit of the mother filed 9 April 2018 at [106].
[350] Affidavit of the father filed 8 March 2018 at [7].
[351] Affidavit of the father filed 8 March 2018 at [10].
[352] Affidavit of the father filed 6 April 2018 at [23].
[353] Affidavit of the father filed 6 April 2018 at [25].
[354] Child Inclusive Conference Memorandum to Court of Ms R dated 21 March 2018, p. 3.
[355] Affidavit of the father filed 6 April 2018 at [28].
[356] Affidavit of the mother filed 9 April 2018 at [110].
[357] Affidavit of the mother filed 9 April 2018 at [112].
[358] Exhibit 12.
[359] Affidavit of the mother filed 9 April 2018 at [119].
[360] Affidavit of the father filed 6 April 2018 at [40].
[361] Affidavit of Ms Rabkin Snr filed 6 April 2018 at [12].
[362] Affidavit of the father filed 6 April 2018 at [41].
[363] Affidavit of Ms Rabkin Snr filed 6 April 2018 at [12].
[364] Affidavit of the mother filed 9 April 2018 at [113].
[365] Affidavit of the mother filed 9 April 2018 at [116].
[366] Affidavit of the mother filed 9 April 2018 at [137].
[367] Affidavit of the mother filed 9 April 2018 at [116].
[368] Exhibit 19.
[369] Exhibit 20.

[370] Exhibit 23
[371] s 60B of the Act.
[372] Parenting plans.
[373] s 65D of the Act.
[374] s 60CA and s 65AA of the Act.
[375] See, for example: *AMS v AIF* (1999) 199 CLR 160 at 207-208.
[376] *Ibid.*
[377] *Banks & Banks* (2015) FLC 93-637: whilst a decision about an interim decision, the principle seems equally applicable to final hearings.
[378] Ss 60CC (2)(a), (2)(b), (3)(a), (3)(b) of the Act.
[379] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [8.5].
[380] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.24].
[381] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.4].
[382] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [6.25].
[383] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [8.4].
[384] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [8.6].
[385] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.2].
[386] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [7.33].
[387] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.11].
[388] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.5].
[389] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.13].
[390] Given their past involvement in the child's life and likely future involvement in his life if he remains living in Australia, I consider it expedient to consider matters relevant to Ms V and the paternal grandmother here.
[391] Ss 60(3)(c), (ca),(f),(i) and (m) of the Act.
[392] Affidavit of Dr P filed 9 February 2017.
[393] Affidavit of the father filed 8 February 2017 at [463].
[394] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [6.4].
[395] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [6.10].
[396] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.14].
[397] Affidavit of Ms W filed 14 February 2017 at [70].
[398] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [4.37].
[399] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.6].
[400] Affidavit of the mother filed 9 April 2018 at [171] – [174].
[401] Affidavit of the mother filed 9 April 2018 at [170].
[402] Affidavit of the mother filed 9 April 2018 at [177].
[403] Affidavit of the mother filed 9 April 2018 at [155] & [156].
[404] Affidavit of the mother filed 9 April 2018 at [157].
[405] For example, in administering eye drops for conjunctivitis.
[406] Affidavit of the mother filed 8 April 2015 at [318].
[407] Affidavit of the mother filed 8 April 2015 at [323] – [324].
[408] Affidavit of the mother filed 8 April 2015 at [333].
[409] ss 60(3)(c), (ca),(f),(i) and (m) of the Act.
[410] Affidavit of the mother filed 17 February 2017 at [326] – [327].
[411] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [4.62].
[412] Affidavit of Ms FH filed 14 February 2017 at [13].
[413] ss 60CC (3)(b) of the Act.
[414] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [5.17].
[415] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.12].
[416] ss 60CC(3)(j) and (k) of the Act.
[417] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [2.5].
[418] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [2.8].
[419] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [3.36].
[420] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [6.10].
[421] Affidavit of Mr O filed 13 December 2013, Annexure "PJ-2" at [8.7] – [8.8].
[422] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [4.4].
[423] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [3.39].
[424] Affidavit of Mr O filed 5 May 2015, Annexure "PJ-1" at [8.7] – [8.8].
[425] s 61DA of the Act.
[426] s 61DA(2) of the Act.
[427] s 61DA(4) of the Act.
[428] *Cox & Pedrana* (2013) FLC 93-537, [19]; s 60CA; s 65AA of the Act.
[429] s 65DAC(2) of the Act.
[430] 65DAC(3) of the Act.
[431] Affidavit of Mr O filed 27 February 2017, Annexure "A" at [10.3]