

Ignore the family court at your peril – it means what it says



The recent case of *Re C (A Child)* [2018] EWHC 557 (Fam) is a reminder of the extent of the court's power to deal with a parent who persistently fails to comply with a court order setting out what contact the other parent should have with their child.

In this case the child, a six year old girl, was living with her mother following her parents' separation with the court making an order that the mother should make the child available to the father for contact, including overnight contact and holiday contact. There had been in excess of 50 court hearings, during the course of the child's life, in relation to the arrangements for her.

The court came to the conclusion that the father was a 'respectable, hard-working man' and there was no reason why the child should not be able to have good quality family time with him. The court also found that the mother had a 'deeply ingrained hostility' to the father and his family.

The court considered, bearing in mind the background, that it only had two options available to it, the first being to give the mother another chance and the second to change the child's residence, such that she would live with her father instead of her mother. The judge concluded that the circumstances of the case were such that the time had come to change the residence of the child and that the mother should not have another chance to comply with the earlier made contact orders.

The mother tried to appeal the decision of the court with the case then being looked at by the High Court of England and Wales.

The mother argued, among other things, that the lower court had taken no account of the wishes and feelings of the child and the fact that the child was extremely distressed at the prospect of having to stay with her father.

The High Court, however, recognised that the child had a good relationship with both her parents and that her wishes and feelings, in this case, were unlikely to be decisive and that it was in her best interests to have a normal and positive relationship with her father during her childhood. The court also recognised that there was no evidence to back up the mother's contention that the child was extremely distressed at the prospect of staying with her father, that this alleged distress was directly contradicted by the observation of very positive contact between the child and the father.

One of the other factors that the court took into account was the fact that the father was willing to promote the child's contact with the mother, notwithstanding the difficulties he had experienced.

The High Court decided that there was no prospect of success of an appeal and the order of the lower court, whereby the child was to reside with her father, should stand.

This case reinforces the fact that it is very much in a child's best interest to have a positive relationship with both parents and demonstrates the extent to which the court is prepared to go in order to ensure that a child's needs, in this respect, are met.

If you have any questions relating to the above, please feel free to [contact a member of our family law team](#).



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