

Recently, Zubair Mughal represented a client (“the client”) at a hearing where he successfully persuaded the Judge to order a significant increase in contact between the children and the client, despite there having been no contact for two years.

Background

From the outset of proceedings, Cafcass recommended “no contact” between the children and the client. The basis for their recommendation was twofold:

- 1) The children’s expressed wishes and feelings
- 2) The serious allegations advanced on behalf of the resident parent against the client.

Resultantly, at the time of the fact-finding hearing, the client had not had any contact with the children for over a year.

Zubair represented the client at the fact-finding hearing. Through Zubair’s representation, the client successfully disproved all the allegations of the Respondent/ resident parent. Furthermore, the client was successful in proving all their allegations, including the allegation of serious parental alienation.

Following success at the fact-finding hearing, the Court ordered that the client was to resume contact with the children. In this case, it was ordered that the appropriate method of resuming contact was through telephone calls.

Continuing alienating Behaviour

Several months after the hearing in which the Court ordered the resumption of contact through telephone calls, the resident parent was continuing to display alienating behaviours.

Zubair made a strong case on behalf of the client to significantly increase their contact with the children. The focus of his submissions was on the significant emotional damage being caused to the children as a result of the continuing alienating behaviours of the resident parent, especially in circumstances where the Court found the allegations of domestic abuse to be fabricated.

Referring to the cases of *Re V (A Child) [2013] EWCA Civ 1649*, *TB v DB (Change of Residence) [2013] EWHC 2275*, *U (Children: Residence order) [2016] EWCA Civ 1332*, *Re C (a child) [2018] EWHC 557 (Fam)* and *Re H (a child) (parental alienation) [2019] EWHC 2723 (fam)*, Zubair argued that the inconvenience caused to the children as a result of the sudden and significant change in contact was outweighed by the necessity to bring an end to the emotional damage caused to them as a result of the resident parent’s alienating behaviours.

Outcome

Zubair was persuasive in his arguments on behalf of the Applicant and the judge agreed with most of his submissions. As a result, the judge ordered that direct, unsupervised contact between the client and the children take place immediately, with overnight contact resuming in the space of 3 weeks.

The Takeaway

This case examples that even if there has been a significant break in contact between the non-resident parent and the children, the Court may order an increase in contact, or even a change in residence, where it is in the best interests of the children to do so.