Re K (A Child) [2011] EWHC 1082 (Fam)

Case No: EY11C00034

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
IN THE MATTER OF THE CHILDREN ACT 1989
AND IN THE MATTER OF K (A CHILD)

Royal Courts of Justice
Strand, London, WC2A 2LL
16/5/2011

B e f o r e :

THE HONOURABLE MR JUSTICE PETER JACKSON

Between:

A City Council
- and -
(1) T (mother)
(2) J (father)
(3) K (by her Children's Guardian)

Mr Christopher Watson (instructed by Coventry City Council Legal Services Department) for the local authority
Mr Andrew Bagchi (instructed by Varley Hibbs LLP) for the child and her Children's Guardian
The First and Second Respondents were not represented
Hearing date: 14 April 2011; Judgment date: 16 May 2011

HTML VERSION OF JUDGMENT (APPROVED)

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Mr Justice Peter Jackson:

Introduction

1. The issue when this matter was heard was whether K, a 13-year-old girl, should attend the hearing of an application by her local authority to keep her in secure accommodation for three months. She wanted to be at the hearing, but the local authority opposed her attendance on welfare grounds. The issue was referred by the County Court to this court on the eve of the hearing. Having heard submissions, I directed the local authority to make arrangements for her attendance at the hearing on the following day, and reserved this judgment.

2. In 1994, Ewbank J considered a similar situation when refusing an application made on behalf of a 10-year-old boy: Re W (Secure Accommodation Order: Attendance at Court) [1994] 2 FLR 1092. In the course of the hearing before me, K's Guardian argued that the approach nowadays is, or should be, different.

Children's participation

3. The participation of children in legal proceedings about their future is a topic that evokes a range of responses from adults, and also from children.

4. The majority adult view has moved a long way from the days when children were seen but not heard, but a feeling that it is not good for children to be personally involved in every aspect of our adversarial system is still deep-rooted. Proper concerns include a fear that direct exposure to conflict will harm already vulnerable children, a worry that greater participation will leave children open to manipulation by unscrupulous parents, and a feeling that the presence of a child in a courtroom is somehow inappropriate.

5. Article 12 of the United Nations Convention on the Rights of the Child 1989, which carries moral, though not legal, authority, provides that:

> *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child … **The child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or appropriate body**, in a manner consistent with procedural rules of national law.* [Emphasis added]

6. We are very familiar with children being heard indirectly. Their views are gathered and their points of view argued by trained adults. In proceedings brought by the state, the representation of children by a Children's Guardian and solicitor is an indispensable safeguard. In acute disputes within the family, the need for children to be separately represented has been increasingly recognised in recent years: e.g. Mabon v Mabon [2005] 2 FLR 1011.

7. Instances of the direct involvement of children are less well developed. In some courts, including the Principal Registry, children, some quite young, are brought to court to be seen by a welfare professional at the outset of proceedings between their parents. This process leads to a high rate of settlement, perhaps because the views of the children shape the outcome, or perhaps because some parents feel anxious about putting their children in the spotlight.

8. Another route for greater direct involvement is through meetings between children and judges. These are not for the purpose of gathering evidence, but to enable children to feel more involved and connected with the court process. Such meetings have surely become more common following the Guidelines approved by the President of the Family Division in April 2010. The authors of the guidelines, experienced family law judges, argued that children who want to see judges should be supported in doing so, and not protected from participation.

9. The presence of older children in court is unusual, but by no means unheard-of in cases where a child has sufficient maturity to give instructions directly to a solicitor. Likewise, the Supreme Court has recently done away with the presumption that children should not give evidence: Re W (Children) (Abuse: Oral Evidence) [2010] UKSC 12, [2010] 1 FLR 1485.

10. The range of adult views on children's participation is reflected in the views of children themselves. Most children hate being drawn into disputes between their parents and many find it difficult to be asked to make choices. On the other hand, some children expect to be fully involved in decisions about their lives, and resent exclusion, particularly where proceedings are being brought by outside authority. Research into children who had been subject to legal proceedings, carried out for the NSPCC and published in 2007, found that only 10 of the 134 children questioned had attended court. Some had only gone to look around and two had not wanted to go at all. The large number who had not gone to court divided 60/40, the greater number saying that they would not want to go. However, a sizeable

minority (50 children) would have liked to go to court, and half of these would have liked to have seen the judge.

11. The nature of a court hearing is transformed by the presence of the child concerned. Giving the Hershman/Levy Memorial Lecture to The Association of Lawyers for Children in June 2007, Sir Nicholas Wilson has referred to the possible advantages of meetings between children and judges for all concerned: for the judge in understanding the child better, for the parents in gaining reassurance that the court does not entirely depend on professional accounts, and for the child:

    Thirdly, and above all, it can bring advantages for the child. Hopefully the child will feel respected, valued and involved, as long as she is not coerced or obliged to make choices that she does not wish to make. Many children, especially the older ones who are loyal to both parents, simply do not want to be asked to choose. But it is just as important that they be enabled to say that, as it is that they be enabled to express a choice if they have one. It also presents an opportunity to help the child understand the rules. Just as the parents will have to obey the court order whether they agree with it or not, so will the child. Hopefully, a child who has been involved in the process may feel more inclined to comply with the decision than one who feels that she has been ignored.

12. The interim report of the Family Justice Review (the Norgrove review) is currently consulting on its recommendation that children and young people should as early as possible in a case be supported to be able to make their views known, and that older children should be offered a range of ways in which they could – if they wish – do this. These include speaking directly to the judge in court, speaking to the judge outside court, writing a letter to the judge, appearing by video-link or telephone or Skype, or by their views being expressed through a trusted, neutral individual.

13. Under its procedural rules, to which I now turn, the court has complete flexibility in promoting the kind of involvement that best meets the needs of the individual child; the question is whether enough use is made of that flexibility.

The attendance of children at hearings

14. Section 95 of the Children Act 1989 provides that a court hearing an application for an order under Part IV or V of the Act (which deal with care proceedings and child protection) may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order. The power shall be exercised in accordance with rules of court. If an order is not complied with, the court may authorise a constable, or some other person, to take charge of the child and bring him to court.

15. This neglected provision is perhaps an echo of the old Children and Young Persons Act 1969, under which a child aged five years or older had to attend care proceedings unless the court ordered otherwise.

16. While it would be extremely unusual for a hearing to take place in the absence of an adult party who wanted to attend, both public and private law proceedings nowadays routinely take place in the absence of the child.

17. The rules of court, now the Family Procedure Rules 2010, provide as follows:

Attendance at hearings*This section has no associated Explanatory Memorandum*

12.14.*— (2) Unless the court directs otherwise and subject to paragraph (3), the persons who must attend a hearing are—*

(a) any party to the proceedings;

…

(3) Proceedings or any part of them will take place in the absence of a child who is a party to the proceedings if—

(a) the court considers it in the interests of the child, having regard to the matters to be discussed or the evidence likely to be given; and

(b) the child is represented by a children's guardian or solicitor.

(4) When considering the interests of the child under paragraph (3) the court will give—

(a) the children's guardian;

(b) the solicitor for the child; and

(c) the child, if of sufficient understanding,

an opportunity to make representations.

18. Practice Direction 16A, paragraph 6.6(b), obliges the Children's Guardian to advise the court on the wishes of the child in respect of any matter relevant to the proceedings, including the child's attendance at court.

19. So, a party must attend a hearing, but if the party is a represented child the proceedings will take place in their absence if it is in their interests having regard to the matters to be discussed or the evidence likely to be given. These rules, which are in the same terms as the Family Proceedings Rules 1991, do not to my mind contain any inbuilt presumption. It is a question of what is in the interests of the child.

20. The court therefore has the power to exclude a child who wants to attend court, on the grounds that it is bad for him or her to be there. In a number of authorities, a contrast has been drawn between family proceedings, which are described as "benign", and proceedings in the youth court, which of course a child defendant must attend. Some commentators, for example Professor Judith Masson, have remarked on the paradox whereby children must unwillingly attend punitive proceedings but are discouraged from attending benign ones.

21. Since the Children Act 1989 was enacted, the rights contained in the European Convention on Human Rights have become part of domestic law. Article 6(1) provides that in the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing before an independent and impartial tribunal established by law. This plainly does mean that a hearing will be unfair simply because a child does not, or is not allowed to, attend it. However, it has been suggested by Baroness Hale, writing extra-judicially at [2007] IFL 171, that the Strasbourg court might well see difficulty in the routine exclusion of children. Speaking of her own practice:

    I myself always took the view that if a child was deemed mature enough to instruct her own solicitor (or to make her own application in private law proceedings) she was mature enough to attend court and ought to be expected to do so unless there was a very good reason to the contrary. It is all part of accepting that rights bring responsibilities too.

Secure accommodation

22. The latest available statistical information about secure children's homes dates from the year to March 2010. There were then 17 homes in England and Wales, which during the course of the year contained 260 children aged between 12 and 17. Nearly half are girls. Half are

placed following sentence by the Youth Justice Board, and half are placed by local authorities, some in a criminal justice context and some for welfare reasons under the Children Act. This last group consisted of 95 children in 2010. Three quarters of the stays in secure accommodation are for six months or less.

23. Section 25 of the Children Act 1989 provides a mechanism whereby the court controls the restriction of liberty of children looked after by local authorities. It is found in Part III of the Act, which deals with local authority support for children and families. Accordingly, the attendance provisions under section 95 do not apply to applications for secure orders, but Rule 12.14 does: see Rule 12.2.

24. Section 25 reads:

    Use of accommodation for restricting liberty

    (1) Subject to the following provisions of this section, a child who is being looked after by a local authority may not be placed, and if placed, may not be kept, in accommodation provided for the purpose of restricting liberty ("secure accommodation") unless it appears –

    (a) that -

    (i) he has a history of absconding and is likely to abscond from any other description of accommodation; and

    (ii) if he absconds, he is likely to suffer significant harm; or

    (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

25. If the criteria are satisfied, the court must make an order authorising the local authority to keep the child in secure accommodation and specifying the maximum period. Under Regulations 10-12 of the Children (Secure Accommodation) Regulations 1991, a local authority may keep the child in secure accommodation without the authority of the court for a maximum period of 72 hours in any period of 28 consecutive days. The maximum period which the court may authorise on an initial application is three months, and on further applications six months at a time.

26. In Re M (Secure Accommodation Order) [1995] 1 FLR 418, the Court of Appeal referred to the responsibility of reaching *"so serious and Draconian a decision as the restriction upon the liberty of the child".*

27. In Re K (Secure Accommodation Order: Right to Liberty) [2001] 1 FLR 526, the Court of Appeal decisively rejected the argument that secure accommodation orders were incompatible with the right to liberty under Article 5 ECHR.

28. Secure accommodation orders were made in the presence of the children concerned in that case and in Re AS (Secure Accommodation Order: Representation) [1999] 1 FLR 103. The children were aged 15 and 12 respectively.

Re W (Secure Accommodation Order: Attendance at Court) [1994] 2 FLR 1092

29. This decision is directly in point. It was an appeal by a boy aged 10 who had wanted to attend court, where a three-month secure accommodation order had been made in his absence. His appeal was dismissed by Ewbank J, who held that natural justice did not demand the child's presence in court, and that the rules allowed the court to take the course that it had done. The court had an inherent power to control its own proceedings. The fact that the child would have to be physically restrained in court provided sufficient grounds to refuse to allow him to attend.

30. Ewbank J noted that the rules clearly envisaged that a child may wish to come to court, and may be allowed to do so. However, he then went on to note the remarks of Waite J in Re C (A Minor)(Care: Child's Wishes) [1993] 1 FLR 832, concerning a 13-year-old who had been present during care proceedings in the family proceedings court:

> *'. . . I think it would be a pity if the presence of children as young as this at the hearing of High Court appeals from magistrates in family proceedings were to be allowed to develop unquestioningly into a settled practice. Most of the children concerned in care proceedings have only become involved in the first place because of some past or anticipated experience which threatens the stability and lightness of heart which could be called the national birthright of every child. I would have thought that to sit for hours, or it may be even days, listening to lawyers debating one's future is not an experience that should in normal circumstances be wished upon any child as young as this.'*

31. Referring to the submissions before him, Ewbank J said this:

> *On behalf of the Official Solicitor it is said that in general terms the presence of children in court is harmful to children, that children in care proceedings, and more particularly in secure accommodation proceedings, are amongst the most damaged and disadvantaged children in our community, and that it will be of no benefit to them to sit through to the end. Moreover, it is likely to increase their sense of responsibility for what is being decided, and to cause anxiety and distress. It is said that the court should be satisfied that the interests of the child indicate that the child should be in court if there is a suggestion that the child wishes to come.*
>
> *It is said in behalf of the child that the liberty of the child is being curtailed, that this is equivalent to a custodial order in a criminal court, and natural justice demands that the child should be allowed to be in court before an order is made which will have that effect. For my part I cannot see any analogy between orders made in this Division and orders made by the criminal court. The purpose of the criminal court is to deal with criminal offences committed by people or children, and one of the aims at any rate of the criminal court is to punish the perpetrators.*
>
> *This jurisdiction is entirely different. It is, as the Official Solicitor said, a benign jurisdiction. It is to protect the child, sometimes from others and sometimes from itself, and in some cases it is necessary in order to protect the child and to act as a good parent would act to curtail the child's liberty for a time. The statute which provides for this is limited in its scope; not only the court but also the Secretary of State in the case of young children has to be satisfied that secure accommodation is necessary. I am told that there are probably some thousand children a year put into secure accommodation, so that the numbers of orders made are quite substantial.*
>
> *In addition to the considerations of the interests of the child, which override any other considerations, there is also the inherent power of the court to control its own proceedings, and that is relevant in this particular case at the particular time that the district judge heard the case. It was his view on the evidence he heard or the reports he had read that the child would have to be physically 'shackled', as he put it, in court in order to control him. This in itself would be sufficient ground in the inherent jurisdiction of the court to refuse to allow the child to be in court. One can see that the prospect of disturbance or unruliness in court, or the possibility of the child being educationally subnormal, or the child being much younger than this child, would be examples of cases where the court would not allow the child to be in court for the hearing.*
>
> *The local authority, as I mentioned, has had interim care orders since the early part of this year. Accordingly the mother and the local authority both have parental responsibility for this child. Both of them take the view that this child, at that stage, ought not to have been allowed to come to court. If either of them had taken a*

different view, that would have been a matter which the district judge ought to have taken into account.

32. Dismissing the child's appeal, Ewbank J concluded:

> *In my judgment the court in dealing with an application for secure accommodation, and probably in dealing with an application for a care order, can allow the child to be in court, but* ***the court must always bear in mind that attendance in court is likely to be harmful to the child, and the court should only allow the child to attend if it is satisfied that attendance is in the interests of the child****. Certainly where the court is of the view on the material before it that the child is likely to be unruly, the court in its inherent jurisdiction can refuse to allow the child into the court.* [Emphasis added]

Discussion

33. In the generation that has passed since the decision in Re W, thinking about these issues has undoubtedly evolved. It does not greatly matter whether the evolution has been driven by the Human Rights Act 1998, or whether, as I believe, the two processes have taken place in sympathetic parallel. In either case, in considering child welfare and children's rights we would, I think, give more weight to the potential benefits of greater involvement by children who want to be present when important decisions about their future are made. It can no longer be presumed that attendance in court is likely to be harmful: if this is so, thought must surely first be given to adapting court procedures to meet children's needs before deciding to exclude them. Nor should children have to prove that their attendance at proceedings about them is in their interests. The starting point should be an open evaluation of the consequences of attendance or non-attendance in terms of the welfare of the child and the court's ability to manage its proceedings fairly.

34. Each case will depend on its own circumstances, but the following factors will generally be relevant:

(1) **The age and level of understanding of the child**. The claims of children of secondary school age will be stronger than those of primary school age, but what matters is whether the child has a sufficient level of understanding of the decision that the court has to make, and the way it will go about making it.

(2) **The nature and strength of the child's wishes**. The court will need to consider whether a refusal to allow attendance will create or increase a sense of alienation in the child. A decision made in the child's presence may be one that he or she will find easier to understand, and where necessary respect and obey.

(3) **The child's emotional and psychological state**. If there is clear evidence, probably in the form of expert advice, that attendance is likely to lead to harmful or unpredictable consequences for the child's emotional condition, the child's wishes may have to be overruled.

(4) **The effect of influence from others**. The court will be on its guard against signs of manipulation of the child. Special pressure from any quarter may be magnified by attendance and make it inappropriate.

(5) **The matters to be discussed**. Rule 12.14 requires the court to have regard to these. In proceedings concerning separation from family or placement in secure accommodation, the matters for discussion are of such high importance to the child that an expectation of involvement may be no more than a natural response.

(6) **The evidence to be given**. Again, the rule also requires the court to have regard to this. In cases where the evidence is likely to be particularly difficult or distressing, or where it

concerns matters that the child should be protected from hearing, attendance can be denied on the basis that it will be harmful. In other cases, the evidence will be no more than a rehearsal of what the child already knows.

(7) **The child's behaviour**. In secure accommodation cases, the risk of fight or flight may be so high as to make attendance unwise. On the other hand, the fact that children in secure accommodation will inevitably have to be guarded cannot in itself be a reason for proceeding in their absence. As to the chance of disruption in court, the safety of other court users must be considered. Children who are in secure accommodation often find their way there after violence at home or at school, and in the secure unit itself. The fact that trouble at court cannot be ruled out will be a factor, but may not be a conclusive reason for refusing attendance. Criminal courts routinely accommodate people who pose a risk to the public, and family courts are used to dealing with situations of high emotion.

(8) **Practical and logistical considerations**. These will particularly come into play in secure accommodation cases. There are secure units throughout the country, and a child may be placed a great distance from the relevant court. The length of the journey, the amount of time the child will be out of placement, and the cost of attendance where supervision is required may also inform the decision. However, the court will be slow to refuse to allow a child to attend for such reasons alone, unless it has exhausted possible alternatives. The availability of a video link in or near the placement should at least be considered, consistent with the Public Law Proceedings Guide to Case Management (paragraph 24) which encourages the court to make full use of technology.

(9) **The integrity of the proceedings**. The court always retains the power to manage proceedings in a way that achieves overall fairness. Other considerations, such as the interests of other parties, may influence decisions about a child's attendance.

35. The above evaluation may well lead to the conclusion that a child of sufficient understanding who wants to attend an important hearing about his or her future should be allowed to do so for at least part of the time, unless there are clear reasons justifying refusal. This situation will most often be found in, but is not limited to, public law proceedings. In cases where attendance at the hearing itself is not thought appropriate, a meeting with the judge is a possible alternative.

36. Secure accommodation applications self-evidently involve deprivation of liberty, and the reasons for refusing a child's request to attend the hearing (which may be found in a high risk of psychological harm to the child) will need to be particularly cogent.

37. Applying this approach to the situation of the 10-year-old boy in Re W, it may be that a court today would reach the same conclusion about his attendance, based on a consideration of his age and extreme behaviour. On the other hand, a presumption against attendance would not be applied and greater weight would probably be attached to the view that was expressed by the child's Guardian that he should be present to hear the decision and the reasons for it directly from the court.

Procedure

38. As seen above, rule 12.14(4) requires the court to give the Guardian, the child's solicitor and the child (if of sufficient understanding) the opportunity to make representations about the child's attendance at a court hearing.

39. In any case where a child wants to attend a court hearing, or where he or she might wish to do so if told that it was possible, the parties must ensure that the court is informed of any arrangements that are proposed.

40. In cases where there is disagreement, the parties (notably the local authority or the Guardian) must where possible ensure that the matter is formally brought before the court as a

preliminary issue for decision in good time before the relevant hearing. Disagreement should not be resolved by informal communications between the parties and the court.

K's situation

41. K, aged 13½, is in the care of her local authority. She was removed from home in March 2010 and in February 2011 the County Court made full care orders in relation to her and her siblings, aged 15 and 11. They had been removed from their parents after her older sister said that she had been sexually abused by her father from the age of 6. In making the care orders, the court considered that all the children were at risk of physical, emotional and sexual harm in the care of their parents. K does not accept these findings and does not want to be in care or in secure accommodation. She is an angry and damaged girl who is determined to fight the system until she is allowed to go home.

42. K's behaviour in care has been chaotic. She has had no less than six placements in the course of the year. She initially spent three months in a foster home, which ended because of her difficult behaviour. She spent two months in another foster home, which ended when she threatened violence to younger children. She lived for six weeks with a respite carer, but the placement ended when she trapped the foster carer's arm in the door, pushed her to the floor and locked her out. She was then placed in a residential assessment placement for two months. She was verbally and physically abusive towards staff and peers, punching, kicking, head-butting and biting, and attempting to push staff members down the stairs. She stabbed a staff member in the hand with a fork and regularly threatened people with knives and other objects. Psychological assessment found that she was not mentally disordered but that her difficulties were behavioural. A therapeutic placement was recommended, but not approved. She went to another foster placement, which lasted a month, and ended with her pulling on the handbrake and attempting to jump out of a moving car. On return home K threatened her carer with knives and a meat cleaver, resulting in an injury to the carer's hand. She then went to a residential placement for a week, but they could not manage her. Just before Christmas 2010 she was placed in a two-bed therapeutic placement with on-site educational provision. She regularly assaulted staff members, causing black eyes, bruising and split lips. In March 2011 she seriously assaulted a staff member, jumping on her and repeatedly punching her in the head. A staff member lost consciousness and was taken to hospital. At the time it was thought that her skull was fractured.

43. Following this assault, which the police are investigating, K was placed in a secure unit on 10 March 2011 under a 72 hour authorisation from the local authority. On 14 March an interim secure accommodation order was granted, lasting until 15 April 2011.

44. Her behaviour in the secure unit has continued to be volatile. At times she has been distressed and reflective and at other times abusive and violent, posing a threat to herself, to other children, and to staff. Numerous incidents have been recorded.

The current proceedings

45. The application for a secure accommodation order was issued on 10 March 2011 and immediately transferred from the Family Proceedings Court to the County Court, where it has been dealt with by His Honour Judge Bellamy, the designated family judge. On 14 March he made an interim order, and gave directions for a hearing on 15 April. K did not attend the hearing on 14 March because the local authority and the secure unit decided, in the words of staff at the unit, that she was "too high risk to attend".

46. On 5 April, K's Guardian and solicitor visited her at the unit. K was very angry with the Guardian for supporting the making of the final care order. She knew about the hearing on 15 April and, in the words of her solicitor, "made it clear that she was going to attend the hearing, which she has every right to". The solicitor for the child, with the agreement of the Guardian, drew the situation to the attention of the judge's clerk. By 6 April, the view of the local authority, the unit, and the Guardian was that it would not be in K's interests to attend the

hearing. Faced with this situation, Judge Bellamy referred the matter to this court for preliminary decision.

47. The matter came before me on 14 April. The local authority submitted that K should not be allowed to attend the hearing the next day because of her high level of aggression and volatility. It referred to the opinion of the secure unit that "the Court arena can be extremely traumatic and K's current demeanour would only place her at extreme risk. It is for these reasons that we currently recommend K should not attend court." The local authority asserted that any benefits from K's direct involvement were outweighed by the risks posed to herself and others. The risks included injury, absconding, refusing to return to the unit, or using the hearing as an opportunity to see her parents outside the contact that forms part of her care plan. Contact has been upsetting for her.

48. The Guardian's position, by the time the matter came before me, had changed. Mr Bagchi explained that the Guardian now supported K's wish to attend court. By attending, K would be more likely to understand and accept the court's decision. Nothing that was going to be said in court would come as a surprise to her. K had given a commitment to her solicitor to behave herself at court. Overall, it was submitted that there must be a heavy presumption in favour of allowing a child of 13 to attend a hearing of this kind.

49. Both parties invited the court to consider a video link if their main submissions did not succeed. However, the secure unit has no video facility and the nearest video link would be at a different court, so that option was not an attractive alternative.

50. Neither parents played any part in the hearing before me; the mother was reported to be neutral on the issue of K's attendance.

51. The secure unit is about 1½ hours' drive from the court. If K attended, she would be accompanied by three adults, none of them staff at the unit. The local authority did not argue that the cost of arranging K's attendance should be a factor in the decision in this case.

52. It is by now accepted by all parties that K is of sufficient understanding to give instructions directly to her solicitor. Arrangements for her Guardian to be separately represented are in hand.

53. Having heard the submissions, I was not satisfied that it was against K's interests to attend the hearing, or that there were other reasons for refusing to allow her to attend. I directed the local authority to make the necessary arrangements, in consultation with the court. All arrangements for the conduct of the hearing itself and for K's participation in it were matters to be decided by Judge Bellamy. I gave the local authority permission to make a telephone application to him to vary or discharge the order if there was a change of circumstances overnight. I directed the local authority to file a short report describing K's behaviour in the week following the order.

54. I respect and understand the apprehensions of the professionals looking after K. I nevertheless made the order because there was no convincing evidence that attendance would be psychologically harmful to K, and because the practical difficulties were manageable. It was foreseeable that the almost inevitable secure accommodation order would be upsetting for K, but the chances of her accepting it, and with it the help that the unit is trying to give her, might just be increased if she was part of the event at which the decision was taken. A decision taken in her absence would have zero chance of acceptance. Similarly, it was foreseeable that K might "kick off" at court, but her escort would almost certainly be able to prevent physical harm. In fact, it would probably be harder for her to injure herself or others in the presence of such an escort than it would be in the unit. Anyhow, there is no reason why the court should be privileged from having to witness and deal with situations that social workers have to handle day in, day out.

55. Overall, the evidence suggested that respecting K's wish to attend court was not likely to lead to harm, and might do some good.

Postscript

56. The hearing on 15 April took place in K's presence. She did not cause any disruption at court, but was very distressed by an order authorising the local authority to keep her in secure accommodation for a further three months, and her behaviour during the following week was A volatile as ever.