

## A NEW DEPARTURE FOR THE FAMILY COURTS

A recent judgment delivered by Mr. Justice Peter Jackson of the High Court of England & Wales has generated significant media interest. The reason for this interest is that his decision was delivered in the form of a letter to the child who was the subject matter of the application.

The child in question, Sam (not his real name), is a 14-year-old boy. His father, who had weekend contact with Sam, wished to relocate permanently with his son to a Scandinavian country. This was vehemently opposed by the child's mother and step-father, and was not supported by the social worker officer assigned to the case. The application had been originally started by Sam in his own name, as he was old enough to give instructions to a solicitor. Eventually, however, Sam's father took over the proceedings.

The unique aspect of the decision was the form in which it was delivered. The judge wrote the letter directly to the child as the case was about him and his future. He also composed it in a remarkably clear, informal way, explaining to Sam what his role as judge was, the factors that he had to take into account and the reasons why he made his decision. He also invited Sam to reply to him if he wanted and that his solicitor would make sure that he got the letter.

While the approach in this case was novel, it's potential benefits are clear. Sam will be able to see that his views have been listened to and considered, even if they were not followed. The language used is assessable, ensuring that the child can stay at the heart of matters and be fully involved. This approach could ensure that children can have a fulsome understanding of the processes that are happening, supposedly in their benefit. It is to be hoped that understanding can lead to trust and acceptance of the decision made.

The format is not without its drawbacks though. Mr. Justice Jackson was quite clear in his critical view of the father's evidence, motivation and character, saying that he "had a manipulative side". Arguably, this may lead to damaging the relationship between parents and children, which is to be avoided. If this format is to be continued judges will have to ensure that they take a sensitive approach to matters, with particular care not to inflict harm on already difficult familial relationships. It is also not particularly well suited to complex factual or legal matters, which require a more in-depth analysis.

In any event, this new departure by the UK courts and the continuation of the efforts to allow their reasoning to be more accessible and child-centered is to be welcomed. It is certainly something that the Cayman courts should consider, as both jurisdictions place the welfare of children as their paramount concern.

The full text of the judgment can be found here:

<http://www.bailii.org/ew/cases/EWFC/HCI/2017/48.html>

The questions around marital breakdown are often complex, with significant consequences for the parties. It is advisable to seek the assistance of a professional who can give legal advice and help in the decision making process. Broadhurst LLC has a wide range of experience in giving objective, practical legal advice in family law matters. By giving this support we hope to guide you through the process and bring about a successful resolution.

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