

## **Friday Family Law Roundup**

Here is your summary of legal developments in the world of family law, and this week we have a case summary (Re K) and our news updates written by Chambers' Pupil Saoirse Horan.

### ***Case Law***

Y v Z [2024] EWFC 4 - <https://www.bailii.org/ew/cases/EWFC/HCI/2024/4.html>

- Proceedings under Schedule 1 of the Children Act 1989 where both parents accused the other of misconduct, and each having spent upwards of £600,000 in their respective legal costs. The parties had not been married.
- The Mother sought to return to live with the parties' children to the United States, where she is a citizen, and sought child maintenance and a lump sum to enable her to obtain housing there.
- The Court assessed that a reasonable figure for housing was up to \$5 million in this case, where the parties' had substantial means.
- The Mother originally sought upwards of \$1.9 million in respect of her budget being taken into account for child maintenance, however this was reduced down to \$1.2 million. The Court however came to a figure of \$500,000 for annual child maintenance for the 2 children.
- Mr Justice Peel set out the law in relation to schedule 1 applications, noting that above all, the orders must be made for the benefit of the child/children [35].
- Despite the parties' means in this 'big money' case, the Court agreed with the Father's submission that the present case was distinguishable from the factually extraordinary cases of *Al Maktoum* and *Fuchs*, primarily due to the parties having been married and the standard of living being "incomparably higher" than in this case. The Judge did however accept that there is a pattern, but each case will continue to be determined on its own facts and context [37-38].

K (Children) (Powers of the Family Court) [2024] EWCA Civ 2 –

<http://www.bailii.org/ew/cases/EWCA/Civ/2024/2.html>

- After the conclusion of care proceedings, the Guardian appealed, with the permission of Peter Jackson LJ. The basis of the appeal was that the hearing judge had been wrong to reach the conclusion that she did not have jurisdiction to make the injunction the mother sought, under s31E(1)(a) MFPA 1984. The mother's application was that, "*The Father shall by 4pm on 30 June 2023 provide to the Local Authority the details of his Apple ID and password and thereafter shall provide all cooperation necessary to effect the transfer of the parental controls of B and A's Apple ID accounts (including but not limited to forwarding immediately any account-holder authentication passcodes sent to any phone or email address that he has, and forwarding any relevant email or other correspondence from Apple to the Local Authority).*" [5]
- This application arose from an established issue in and around the parental controls to the children's iPhones. In the first instance, the father claimed that he did not have the means to understand how to remove the parental controls. No party had put forward that the judge did not have the power to make the order at the time. The appeal was supported by the mother and the local authority. The father agreed the judge had the power to make the order.
- The appeal court noted 'the Rules' made under the power contained in section 31D MFPA 1984, accompanied the creation of the family court. [22]
- The public law Guidance was also referred to and is directed towards allocation decisions taken under Rule 20. That is, not decisions that are mandated by or restricted by the schedules. It contains its own Schedule and this sets out the expectation that proceedings with the characteristics described in column 1 will be allocated to DJ level.

- Paragraph 15 of the 2018 Guidance sets out the provision that is fundamental to this appeal: *"In any proceedings in the family court, the court may make any order ... which could be made by the High Court if the proceedings were in the High Court."* This does not permit the family court to exercise original or substantive jurisdiction in respect of those exceptional matters, including applications under the inherent jurisdiction of the High Court, that must be commenced and heard in the High Court. It does, however, permit the use of the High Court's inherent jurisdiction to make incidental or supplemental orders to give effect to decisions within the jurisdiction of the family court. [30]
- It was noted that family court judges should not be deterred from making such orders that are beneficial and fair and that they should deal with applications on the basis that they have the power to make such orders, unless it is shown by reference to the Rules and Guidance that they do not. This mindset will enable effective orders to be made, where appropriate, and mitigate, *delay, expense and duplication of effort.*[37]
- The court concluded that judges and magistrates are permitted to transfer a specific case to a higher level within the family court in instances where there is a sufficient reason to do so. However, due consideration should be given before making any transfer, with consideration to any delay and expense that may be caused.
- The appeal was allowed and the matter was referred back to the judge for her to make a decision in respect of the Mother's application.

## News

Reporting pilots extended – <https://www.lawgazette.co.uk/news/more-family-courts-open-to-journalists/5118395.article>, and <https://www.judiciary.uk/reporting-pilot-for-financial-remedies-court-proceedings-announced/>

- Journalists and legal bloggers will be able to report on financial remedies proceedings in the Financial Remedies Court (FRC) at three courts from 29<sup>th</sup> January 2024. The pilot will not include Financial Dispute Resolution hearings.
- The FRC reporting pilot will cover the Central Family Court, Birmingham and Leeds.
- As part of the pilot, cause lists for all FRC courts, including cases heard at the Royal Courts of Justice, will name the parties and state that the proceedings involve financial remedies.
- The Family Court reporting pilot is also going to be extended to 16 national courts, including Liverpool, Dorset and Milton Keynes on 29 January.

Domestic abuse victims given fresh support to escape abuse –

<https://www.gov.uk/government/news/domestic-abuse-victims-given-fresh-support-to-escape-abuse>

- From 31<sup>st</sup> January 2024, victims of domestic abuse who do not have the financial means to leave their abusers will be able to apply for a one-off payment of up to £500 via one of over 470 support services, for essential items.
- The fund builds on a pilot scheme funded by the Home Office and delivered in conjunction with Women's Aid last year, which helped more than 600 people get to safety.

## Chambers News

Jacqui Gilliatt's seminar on Updates and Tips on Special Guardianship and Adoption is on Thursday 25<sup>th</sup> January 2024 starting at 6pm Via Zoom. The link to register can be found here: [https://us06web.zoom.us/meeting/register/tZYqdeGvrTooGtRy-HN5\\_SuKHRoyfAz8KkT6#/registration](https://us06web.zoom.us/meeting/register/tZYqdeGvrTooGtRy-HN5_SuKHRoyfAz8KkT6#/registration)

**Saoirse Horan & Sarah Barber**