Neutral Citation Number: [2025] EWHC 1876 (Fam)

Case No: RG24P0700

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22/07/2025

Before :

THE HONOURABLE MR JUSTICE MCKENDRICK

- -

Between :

ED	**Applicant**
- and -	
MG	**Respondent**

- -
- -

Bianca Jackson (instructed by **Taylor Rose**) for the **Applicant**
Peter Rothery (instructed by **McAllister Family Law**) for the **Respondent**

Hearing date: 10 July 2025

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Approved Judgment

This judgment was handed down remotely at 10.30am on 22 July 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HONOURABLE MR JUSTICE MCKENDRICK

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

McKendrick J :

Introduction

1. These proceedings concern a much loved three year old boy. He is anonymised in this judgment as D. The applicant is his *de facto* father. The respondent is his mother. The proceedings began with applications made pursuant to section 8 of the Children Act 1989 (hereafter "the 1989 Act"). It has been necessary to determine the following issues:

    (a) the respondent's application for a declaration of non-parentage in respect of the applicant's relationship with D; and
    (b) determination of the outstanding child arrangements order matters.

2. At the hearing I received an agreed background narrative, an agreed statement of the law and two helpful skeleton arguments from counsel. I heard brief oral evidence from Ms Cockley, a social worker. Counsel helpfully developed their written submissions. I reserved my decision. I have concluded to grant the respondent's application and will make a declaration of parentage that the applicant is not D's parent. I will make a joint lives with order, providing for D to live primarily with the respondent but also with the applicant. He shall, thereby, be granted parental responsibility in respect of D. I have resolved the outstanding spend time with issues. I set out my reasons for arriving at these conclusions below.

The Factual Background

3. The parties entered into a relationship in 2018. They attempted to conceive naturally with no success. The parties started the IVF process in the United Kingdom in 2020. In early 2021, embryos were created using eggs from the respondent and sperm from the applicant. Following three rounds of unsuccessful IVF, the respondent began researching IVF in Europe using anonymous donor sperm. She contacted a fertility clinic in Northern Cyprus. In September 2021, the parties agreed that an anonymous sperm donor should be identified. They proceed with assistance from the Northern Cypriot clinic. The respondent paid the fee and they eventually identified an appropriate sperm donor. They both travelled to the clinic.

4. On 29 September 2021 the parties and the donor signed a "Declaration and Consent Regarding Sperm Donation" form. In respect of parenthood, the form states that:

    > *The signatories declare that they are spouses/partners of each other.*
    > *The male partner knows that children born with this method will not carry the hereditary building blockers of him, but instead will have the characteristics of the Sperm Donor and the Natural Mother, that is, the partner/spouse/if permission is given, the egg donor. However, he will be the father of the children(ren) born as a result of this treatment process and he accepts all the legal responsibilities of parenthood gained in this way.*

5. At no time were the parties advised by the fertility clinic to seek legal advice in the UK to ensure that they would be recognised as the child's legal parents.

6. Egg retrieval took place and fertilisation with the anonymous donor sperm was undertaken in late September 2021. The applicant was also in attendance. In October 2021, the respondent took a pregnancy test, with the applicant in attendance. It was positive. D was born in June 2022. On 19 August 2022, the parties registered D's birth at the Registry Office. The respondent was listed on D's birth certificate as his mother and the applicant was listed on D's birth certificate as his father. The parties' relationship ended in June 2023.

7. The applicant issued a C100 application for a child arrangements order (lives with and spends time with) in August 2024. The respondent made a specific issue order application in October 2024 seeking to prevent the applicant from taking D out of the jurisdiction. In the usual way Cafcass reported on safeguarding, a FHDRA took place and then a series of hearings took place. On 27 November 2024, the respondent applied for a Declaration of Non-Parentage pursuant to s.55A of the Family Law Act 1986 to remove the applicant from D's birth certificate.

8. Sarah Cockley, an independent social worker (hereafter "ISW") was instructed to report pursuant to section 7 of the 1989 Act and reported on 14 February 2025. District Judge King held a dispute resolution appointment hearing on 7 March 2025 and transferred the matter to be heard by me. On 28 March 2025, the applicant applied for Declaration of Parentage pursuant to s.55A of the Family Law Act 1986. I heard a pre-trial review on 25 June 2025.

The Evidence

9. There is very little in dispute so I only briefly summarise the parties' written evidence and the opinion of the ISW.

The Respondent

10. The respondent has filed two witness statements. She sets out a detailed chronology of the fertility attempts until she became pregnant. She states she was emotional and tired when the issue of registering D's father on the birth certificate came up and that the applicant was desperate to be named as the father, so she gave in. She states she did not understand that registering the applicant as the father on D's birth certificate would give him parental responsibility over their child. She states that she does not seek to remove the applicant's parental responsibility as the applicant has tried to be a father to D.

11. In her second statement she expressed her disappointment with the ISW report and her concern that her comments have been dismissed. She raised concerns about the applicant's mental health. She raised serious issues about his sexual boundaries with D. She felt the ISW was not impartial. She explains the difficulty with developing contact. She explains why she is opposed to D spending Friday nights with the applicant. She proposes that D spend Wednesday nights and every other Saturday with the applicant. She sets out holiday contact and makes the distinction between pre-school and after September 2026 when D will begin his formal schooling. She argues why a lives with order should be made that D lives with her only and that a spend times with order is sufficient for the applicant. She says that is the reality of the situation.

The Applicant

12. The applicant spends a lot of time correcting the respondent's chronology of fertility efforts. He explains his excitement to be registered as D's father on the birth certificate and sets out they both attended with their passports and requested two copies of the birth certificate. He explains he is D's father regardless of D's DNA. He says D has a right to have a father who plays a fulfilling and meaningful role. In his second witness statement he says the parties made a "clear and mutual decision" that any child born would be his son or daughter regardless of the genetic connection. After they separated, he explains how he respected the respondent's wish that contact only take place in her home and that he tried hard to "co-parent" in a positive manner. Eventually he found the respondent's position on contact unreasonable.

13. Responding to allegations made by the respondent in her application for a FPR Part 25 application for him to be assessed by a psychologist, he denies allegations that he is a sexual predator or mentally unstable. He sets out the strain on him on the respondent's false allegations of sexual abuse. He sets out his detailed plan for developing contact between D and him.

ISW Evidence of Sarah Cockley

14. Ms Cockley reported in a detailed report dated 14 February 2025. She carried out an extensive number of announced and unannounced visits to the parties. She read the court bundle and had access to the applicant's heath records. She sets out a detailed background of the parties and describes D as a happy boy who is meeting all of his development milestones. She rigorously applies the welfare checklist to the issues of the child arrangements order applications. In response to the respondent's concerns about the applicant's mental health she notes there is no risk to D. In respect of the respondent's concerns that the applicant poses a risk of sexual abuse to D, Ms Cockley states: "I have been unable to identify any evidence or risk" of the same. She states that the applicant "does not pose any child protection risks to D". She notes the respondent's over anxious and hypersensitive concerns about the applicant's parenting. She notes the respondent has struggled with the loss of control over D.

15. She supports D living with his mother. She supports the applicant's application for increased contact. She is of the view the applicant is and will continue to be a good father to D. In respect of the specific questions asked of her:

    a. she supports a joint lives with order to ensure both parents can make decisions for D. She notes D is a young child and needs to have both parents in his life.
    b. She agrees the applicant should spend time with D on Wednesday evenings, alternate weekends overnight and school holidays. She did not consider this contact needs to be supervised or supported.
    c. She expresses her concern about the lengths to which the respondent has gone to state the applicant is a risk to D without any foundation.
    d. She supports immediate Wednesday overnight stays for D with the applicant.

e. She supported Wednesday evening contact, alternate weekend contact from Friday to Sunday and three weeks of the summer holidays and Christ and Easter holidays.

16. She gave brief clear oral evidence. She maintained her view that a shared lives with order was necessary to prevent the respondent minimising the applicant's role in D's life. She noted the respondent struggled with the applicant's role in D's life. She did not have confidence in the respondent's decision making progress. When asked about a spend times with order and parental responsibility pursuant to section 12 (2A) of the 1989 Act she remained of the view that it was better for D if the parents had equal rights. She was very clear that she did not want the respondent to control decision making for D. She considered D should spend Friday nights with the applicant to allow for a longer weekend. There was a debate about how soon D could spend significant overnight periods with the applicant given the summer holiday is about to begin. She reiterated the very good relationship D has with his father. She said that the respondent does not respect the applicant's role in D's life.

The Law

17. It is well recognised that parentage is fundamental to our identities. Parenthood exists in a number of different manifestations: genetic, gestational, social and psychological: see *Re G (Children) (Residence: Same-sex Partner)* [2006] UKHL 43, [2006] 1 WLR 2305. I quote from Lord Nicholls at paragraphs 33-35 and 37:

> There are at least three ways in which a person may be or become a natural parent of a child, each of which may be a very significant factor in the child's welfare, depending upon the circumstances of the particular case. The first is genetic parenthood: the provision of the gametes which produce the child. This can be of deep significance on many levels. For the parent, perhaps particularly for a father, the knowledge that this is "his" child can bring a very special sense of love for and commitment to that child which will be of great benefit to the child (see, for example, the psychiatric evidence in Re C (MA) (An Infant) [1966] 1 WLR 646). For the child, he reaps the benefit not only of that love and commitment, but also of knowing his own origins and lineage, which is an important component in finding an individual sense of self as one grows up. The knowledge of that genetic link may also be an important (although certainly not an essential) component in the love and commitment felt by the wider family, perhaps especially grandparents, from which the child has so much to gain.
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> The second is gestational parenthood: the conceiving and bearing of the child. The mother who bears the child is legally the child's mother, whereas the mother who provided the egg is not: 1990 Act, s 27. While this may be partly for reasons of certainty and convenience, it also recognises a deeper truth: that the process of carrying a child and giving him birth (which may well be followed by breast-feeding for some months) brings with it, in the vast majority of cases, a very special relationship between mother and child, a relationship which is different from any other.

> The third is social and psychological parenthood: the relationship which develops through the child demanding and the parent providing for the child's needs, initially at the most basic level of feeding, nurturing, comforting and loving, and later at the more sophisticated level of guiding, socialising, educating and protecting. The phrase "psychological parent" gained most currency from the influential work of Goldstein, Freud and Solnit, Beyond the Best Interests of the Child (1973), who defined it thus:
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> "A psychological parent is one who, on a continuous, day-to-day basis, through interaction, companionship, interplay, and mutuality, fulfils the child's psychological needs for a parent, as well as the child's physical needs. The psychological parent may be a biological, adoptive, foster or common law parent."
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> …..
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> But there are also parents who are neither genetic nor gestational, but who have become the psychological parents of the child and thus have an important contribution to make to their welfare.

18. In *P v Q* [2024] EWCA Civ 878, Peter Jackson LJ (with the agreement of Nicola Davies and Arnold LJJ) describes the distinction between legal parentage and birth registration, at paragraphs 16 to 19:

> The baseline position is the common law principle that a child's legal parents are the gestational mother and the genetic (also known as biological) father. This is a principle of law and not a rule of evidence or a presumption. However, the common law modifies the principle in relation to a married man, who will benefit from a rebuttable presumption of parenthood in respect of a child born to his wife during the marriage, whether or not he is the genetic father.
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> ……
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> The baseline position is also modified in certain respects by the HFEA 2008 and its predecessors, the Family Law Reform Act 1987 and the Human Fertilisation and Embryology Act 1990, in relation to children born as a result of assisted reproduction. So, a sperm donor to a licensed clinic will not be the child's legal father: section 28(6) of the 1990 Act.
>
> …….
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> The registration of a birth under the Births and Deaths Registration Act 1953 will, for important practical purposes, identify a child's legal parents. A birth certificate is perhaps the most fundamental of all documents concerning personal status. However, the registration process depends on the accuracy and completeness of what the registrar is told by the informant(s), and many genetic parents do not appear on birth certificates. Registration is therefore practical evidence of legal parentage, but the legal status of parentage does not spring from registration. In a case where a child's parentage is called into question, the court may make declarations under the FLA 1986, which may or may not confirm the details that appear in the register. It is for that reason that section 14A of the 1953 Act provides for re-registration after a declaration of parentage and notification by the court to the Registrar General under section 55A(7) FLA 1986.

Registration has been said to constitute prima facie evidence of parentage, but it is not conclusive: Brierley v Brierley [1918] P 257, relying on the forerunner to section 34(2) of the 1953 Act. Registration of birth is certainly evidence of parentage upon which the outside world, including a court, is entitled to rely, but where there is an issue about parentage it does not create a legal presumption.

19. The law in relation to declarations of parentage is set out in section 55A of the Family Law Act 1986 (hereafter "the 1996 Act"). I note the legislation does not refer to declarations of non-parentage. Section 55A states:

> (1) Subject to the following provisions of this section, any person may apply to the High Court or the family court for a declaration as to whether or not a person named in the application is or was the parent of another person so named.
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> (2) A court shall have jurisdiction to entertain an application under subsection (1) above if, and only if, either of the persons named in it for the purposes of that subsection—
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> (a) is domiciled in England and Wales on the date of the application, or
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> (b) has been habitually resident in England and Wales throughout the period of one year ending with that date, or
>
> (c) died before that date and either—
>
> (i) was at death domiciled in England and Wales, or
>
> (ii) had been habitually resident in England and Wales throughout the period of one year ending with the date of death.
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> (3) Except in a case falling within subsection (4) below, the court shall refuse to hear an application under subsection (1) above unless it considers that the applicant has a sufficient personal interest in the determination of the application (but this is subject to section 27 of the M1Child Support Act 1991).
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> (4) The excepted cases are where the declaration sought is as to whether or not—
>
> (a) the applicant is the parent of a named person;
>
> (b) a named person is the parent of the applicant; or
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> (c) a named person is the other parent of a named child of the applicant.
>
> (5) Where an application under subsection (1) above is made and one of the persons named in it for the purposes of that subsection is a child, the court

may refuse to hear the application if it considers that the determination of the application would not be in the best interests of the child.

(6) Where a court refuses to hear an application under subsection (1) above it may order that the applicant may not apply again for the same declaration without leave of the court.

(7) Where a declaration is made by a court on an application under subsection (1) above, the prescribed officer of the court shall notify the Registrar General, in such a manner and within such period as may be prescribed, of the making of that declaration.

20. Section 55 (8) adds to section 55A. It states *inter alia:*

(1) Where on an application to a court for a declaration under this Part the truth of the proposition to be declared is proved to the satisfaction of the court, the court shall make that declaration unless to do so would manifestly be contrary to public policy.

(2) Any declaration made under this Part shall be binding on Her Majesty and all other persons.

(3) Court, on the dismissal of an application for a declaration under this Part, shall not have power to make any declaration for which an application has not been made.

(4) No declaration which may be applied for under this Part may be made otherwise than under this Part by any court.

(5) No declaration may be made by any court, whether under this Part or otherwise—

(a) that a marriage was at its inception void;

(b) . . . . . .

(6) Nothing in this section shall effect the powers of any court to make a nullity of marriage order.

21. In addition to *P v Q* above, there are a number of helpful cases which are relevant. These are:

a. *Re S (A Child) (Declaration of Parentage)* [2012] EWCA Civ 1160 (judgment given by Black LJ (as she then was));
b. *Re A and B (Declaration of Non-Parentage)* [2025] EWFC 41 (decision of Cobb J (as he then was));
c. *MS v RS (Paternity)* [2020] EWFC 30; [2020] 2 FLR 689 (MacDonald J);
d. *KL v BA* [2025] EWHC 102 (Fam) (decision of Ms Debra Powell KC siting as a deputy High Court judge).

22. In *MS v RS (Paternity)* MacDonald J considers the section 55A (5) preliminary issue of hearing the application in some detail. He sets out the following at paragraphs 44 and 45:

> With respect to the question of best interests in the context of the court's discretion pursuant to Section 55A(5) to refuse to hear such an application if it is not in the children's best interests to do so, in Re S (Declaration of Parentage) Black LJ observed as follows at:
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> > "[31] Returning to the sphere of declarations of parentage, it may be helpful, in order to examine how section 55A and section 58 interrelate, to take the example of a teenage child who is aware of the application for a declaration of parentage by a man who claims to be his or her father and who threatens that he or she will commit suicide if the man's application is permitted to proceed. A psychiatrist gives evidence that he considers the threat to be genuine and that, should the proceedings continue, the child is at serious risk of emotional harm at the very least. Section 55A(5) would enable the court to refuse to entertain the father's claim for a declaration on the basis that the determination of the application would not be in the best interests of the child.
> >
> > [32] I have deliberately chosen an example in which the application of section 55A(5) is obvious but there may well be cases in which the facts were less radical but the court would still exercise its power under section 55A(5). I would have thought that the examples in Professor Cretney's book of the child conceived in a rape or the child who is settled with adopters would potentially give rise to a power under section 55A(5) to refuse to hear the application. I question whether it is likely that a case would avoid being derailed at the section 55A(5) stage, proceed to a determination of the fact of parentage, and then throw up welfare considerations which would make it manifestly contrary to public policy to grant a declaration."
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> In considering whether it can be said that to hear the application is not in the children's best interests (and further highlighting why facts justifying such a conclusion will generally, but not always be radical in nature) the right of the child to know, and the importance of the child knowing his or her paternity is a factor that must also be weighed in the balance, subject to the matters set out above.

23. The law in respect of declarations of parentage has been summarised by Cobb J in *Re A and B* at paragraphs 19-21:

> These sections *[section 55A and 58 of the 1988 Act]* have unsurprisingly been considered by the court on a number of occasions. I was taken to Re S (a child) (declaration of parentage) [2012] EWCA Civ 1160 in which Black LJ (as she then was) observed (at [23]) that in considering an application of this kind, section 58 FLA 1986 makes clear that a judge "is deciding whether a fact is established, in this case whether this man is the father of this child"; it is not

"taking a discretionary welfare decision or making a value judgment". Of the specific statutory provisions with which I am concerned, she said ([28]):

"… the thrust of sections 55A and 58 is that a declaration will be made unless there is a reason not to do so. Section 55A(5) does not simply invite the court to carry out an assessment of whether it is in the child's best interests to have a determination of the application. It empowers the court to refuse to hear the application if it considers that determining it "would not be in the child's best interests". By the time section 58 is reached, the impetus towards the declaration has become even stronger. It will be made unless to do so would not only be contrary to public policy but manifestly contrary to public policy".
At [31] of Re S, Black LJ described a theoretical but "obvious" and "radical" case in which the court would be likely to refuse to hear the application as not being in the best interests of the child, namely if it were to concern a teenager who is threatening suicide in the event the application is permitted to proceed, and where the evidence reveals that "should the proceedings continue, the child is at serious risk of emotional harm at the very least". Black LJ suggested two further examples at [32], namely that:

"… the child conceived in a rape or the child who is settled with adopters would potentially give rise to a power under section 55A(5) to refuse to hear the application".
Those examples provide a useful and authoritative benchmark.

In P v Q and Others (Declaration Of Parentage) [2024] EWFC 85 (B) Gwynneth Knowles J, having referenced Re S above, went on to comment on statutory provision in section 55A(5) FLA 1986 (the 'Declaration Gateway' as she called it) as follows:

"[27] When considering best interests pursuant to section 55A(5), the court is not required to consider whether hearing the application is in the best interests of the named child but only to consider whether hearing the application would not be in the child's best interests. Neither the paramountcy principle nor the welfare checklist in the Children Act 1989 are engaged in this exercise".

Analysis

24. There is no dispute that the respondent is the genetic, gestational and psychological parent of D. There is no dispute that the applicant is neither the gestational nor genetic parent of D. I am not concerned to determine who is D's genetic father. I am only concerned to make a declaration of parentage in respect of whether or not the applicant is D's parent. This is a mixed question of fact and law. It is factual because under the common law a genetic father is recognised as a parent. It is also a legal question because of the statutory schemes which attribute parenthood to non-biological parents (see *P v Q* at paragraphs 16 and 17). A declaration of parentage pursuant to section 55A is not therefore only a question of biology.

25. I must first consider the preliminary issue of whether to refuse to hear the application if I consider that *the determination* of the application would not be in the best interests of D. The applicant invites me not to hear the application. It is said this would cause D

emotion/psychological harm. It is said there are practical reasons not to do so: possible Irish citizenship might be denied him and financial detriment might be caused to him because the applicant would no longer have child maintenance obligations and because it is said D's right to inherit under the laws of intestacy may be impacted.

26. The applicant's counsel has set out a diligent case in her skeleton argument. However, I have no hesitation in concluding that it is not contrary to D's best interests to determine the respondent's application. There is little or no evidence that the determination of this application would cause emotional harm. It is not what the ISW reports. D has a close bond with the applicant and that will not change. This case gets nowhere close to the type of examples set out by Black LJ in *S* or considered by MacDonald J in *MS v RT.* Furthermore, I agree with MacDonald J that it is important for D to know the true position in respect of his genetic parents, at an appropriate time. I adopt the reasoning set out in paragraph 71 of *MS v* RS. D can be carefully told this in due course. Both parties agreed the ISW set out clear evidence about how that can be managed and explained in a child sensitive manner in due course. Not only is it not not in D's best interest to refuse to determine the application for a declaration, in my judgement it is positively in his best interests for it to be determined. His parents' difficult co-parenting relationship will not be helped by hiding the truth.

27. I therefore proceed to determine the application. As a matter of fact there is no dispute that the applicant is not D's genetic father. Under the common law, as he is not the genetic father, he is not D's parent.

28. Can the common law position be displaced by statute? Both parties agree that the applicant cannot become D's parent pursuant to sections 36, 37 or 38 of the Human Fertilisation and Embryology Act 2008. The parties were not married, were not in a civil partnership and the fertility treatment took place outside the United Kingdom at an unlicensed clinic. I cannot "read down" any of these provisions pursuant to the Human Rights Act 1998 and no real attempt was made (rightly) by the applicant's counsel to pursue this. I find the common law is not displaced by statute: the applicant is not D's father.

29. Pursuant to section 55 (8) (1) there are no public policy arguments contrary to making the declaration. There are certainly no manifest public policy arguments against it. On the contrary, public policy dictates that the Register should be accurate. This was recognised by the applicant and his counsel (rightly) did not mount an argument on this issue.

30. I therefore accede to the respondent's C63 application to make a declaration of parentage. I make a declaration of parentage pursuant to section 55A (1) that the applicant is not the parent of D. Pursuant to section 55 (A) (7) of the 1986 Act, the declaration of parentage will be sent to the Registrar General.

31. Although I do not strictly need to deal with the issue, the parties have raised the question of parental responsibility. In my judgment, the applicant did not acquire parental responsibility in August 2022 when his name was entered on to D's birth certificate. This was an evidential step but the statute had not conferred the necessary parental responsibility because the necessary terms of the 1989 Act had not been met.

A father obtains parental responsibility pursuant to sub-section 4 (1) (a) of the 1989 Act if he is named on the birth certificate. A person who is not a father does not obtain parental responsibility because they are named on a birth certificate, pursuant to section 4 (1) 9a) of the 1989 Act. This is the position adopted by Theis J in *RQ v PA* [2018] EWFC 68; [2018] 4 WLR 169 at paragraph 34.

32. This same issue was given fuller consideration by DHCJ, Ms Debra Powell KC in *KL v BA* [2025] EWHC 102 (Fam)[1]. She considered the matter in some detail and concluded she agreed with Theis J. She held at paragraph 64:

> Looking at the natural and ordinary meaning of the words used in s.4(1)(a), can it also be said that KL was, before the birth was registered, eligible to register MA's birth with BA under that provision and thereby to acquire parental responsibility? The only possible answer to that question, in my judgment, is, as Mr Wilson submits, 'no': there is no ambiguity in the words used in the subsection, and KL was not MA's 'father' under the common law, whether biological or legal, even though he believed that he was.

33. Having read *KL* I am in agreement with Ms Powell KC, for the reasons she gives. The applicant has never been the biological or legal father of D. This is a condition precedent of sub-section 4 (1) (a) conferring on him, as an unmarried parent, parental responsibility when registered on D's birth certificate.

34. Against this background I turn to the outstanding private law issues. First, I must decide whether to make either: a joint lives with order; or an order that D lives with the respondent and, as her counsel invited me to, confer parental responsibility by way of section 12 (2A) of the 1989 Act. On this issue, I prefer the applicant's case and this is for the reasons given by the ISW, Ms Cockley. The respondent resents the control given to the applicant. There is a real risk she will further marginalise the applicant from decision making in respect of D. I accept the ISW's evidence the parties should have equality of parental responsibility status. I reject the respondent's submission that they are not equal as the applicant is not a biological parent. As set out above there are diverse forms of parenthood. The varying and different ways in which parental responsibility can be conveyed on a person reflect this. I approach the issue from D's perspective: it is better he has two loving parents who can exercise parental responsibility over him. It is better he has two parents who have the responsibility of parental responsibility to protect him. It will be better still that they do so from the position of some quality. The imbalance of power may lead to the applicant having a limited role. The extent of the untrue allegations made by the respondent, which she acknowledges she has no proof of, underline the risks of the applicant's potential marginalisation. The best outcome for D is a joint lives with order. I have applied the welfare checklist to this and conclude this best represents who he is and will best protect him from harm. It will encourage good decision making by both parents in respect of his holidays, his schooling and healthcare decision making. He has a bedroom in each home and while he lives more with his mother, D also lives with his father.

[1] I understand permission to appeal has been granted against the order made in this case. I informed counsel. It was not suggested any form of adjournment was required.

35. I also accept the ISW's recommendations that the joint lives with order will provide for D to live with the applicant every Wednesday evening until Thursday morning and every second weekend from Friday after school until Sunday evening. D will be more settled spending two nights over the weekend than just one. From 2026 holidays will be split equally. This summer D will spend two weeks with the applicant and four weeks with the respondent. D will increase the overnight stays from two nights in week one, increasing by a night each week until he spends five nights in week 4 (this is fourteen nights in total). That will provide him with a staged approach to spending more time with the applicant. Two of the six weeks D will spend with entirely with the respondent to permit them a holiday together. The parties are to agree those dates. Whilst I accept the general thrust of the ISW's recommendations, it is too soon for D to spend three weeks with the applicant. It is best he builds up gradually to this.

36. Christmas and Easter holiday are to be split on the basis the respondent suggested. This seemed a fair compromise, focused on D and permitting him to see both parents over holidays. Whilst the applicant wishes to take D to Ireland, the new arrangements will need time to bed in and it will take time for D to get used to this. In due course, in a few years, I cannot see why a Christmas in Ireland one year would be contrary to his welfare interests. I hope this can be agreed otherwise it can the subject of a discrete specific issue order application.

37. The case was well prepared by counsel and solicitors. I thank them and ask they draft an order to give effect to this decision.