

The truth is, family courts are fair to fathers

When women are judged to have failed as mothers, caring dads can win custody battles

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We learnt yesterday that a "permissive mother" had lost custody of her sons after a family court judge transferred the residency of her children to her father. The judge stated that the woman behaved more like a friend than a parent. The transfer was granted despite the two boys, 14 and 11, having lived with their mother since birth. Some of those who have responded with astonishment, including in the comments section of *The Times* online, see it as an almost unique departure from a family court system that favours the rights of a mother, it is claimed, over those of a father.

Some will be staggered at the disruption to the boys' lives when they are in their teens; others will find the reports that this is a result of a loving mother's permissiveness extremely disturbing.

The long but meticulously argued and entirely persuasive judgment tells a rather different story, but one that still provides at least four lessons for those parents mired in the courts and in dispute about the residency and contact arrangements for their children.

The first, and most important, is that the Family Court is bound by

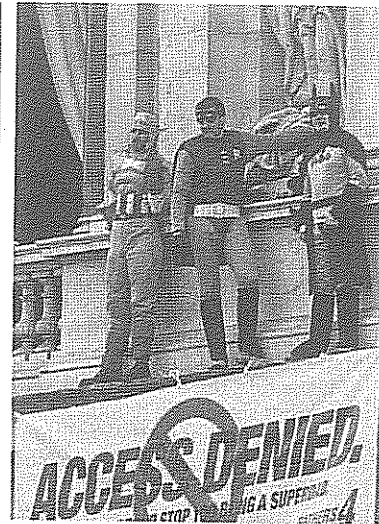
law to do not what is best for parents, not necessarily even to do what is fair to parents, but to do what is best for children. In this case it was clear that Judge Laura Harris was realistic about the disruption to the boys' lives by moving to live with their father. But, as she concluded, she had to weigh short-term harm against longer-term benefits. In doing so she opens herself to criticism by those who believe that children are not listened to enough in court proceedings and that their wishes must be followed more often. In this case the children's wishes were clearly expressed.

Judge Harris recognised that "their expressed wishes and feelings have consistently been not to see or have a relationship with their father". Indeed on one occasion when the father turned up to see his sons they held up a sign saying: "I've told you a

The mother prioritised her needs and feelings over the children's

million times to f**k off. Go away you gay bastard." But despite this, courageously in my view, the judge considered the impact of alienation by the mother on the reliability of the children's wishes and feelings.

The second lesson to be learnt is that in making decisions about what's best for children the fact that children are loved is not, on its own, enough. In my experience, particularly in looking at cases where children have been taken into care and subsequently adopted, it has



There is little to support Fathers For Justice claims that courts are biased

been very clear that the birth parent or parents who have lost their children loved them very much. In this case, the judge concluded that the mother gave her own needs and feelings priority at the expense of her children's. "That is not to say that she does not love her children. I have no doubt she does," she added. That, however, could not compensate for the wider concern that the mother "significantly failed these boys".

Those failings went far beyond a permissiveness in rearing the children, the judge concluding that the boys had been failed in their educational needs and that the mother provided a very poor role model to them, particularly when dealing with challenge. Her behaviour at a parents' evening at

her elder son's school was humiliating to the boy, and she was described by the school's deputy head as horrendous.

The third lesson is that parents need to co-operate with the courts. In this case the father did not so much win the residency of his sons as the mother lose residency. It was clear that in consistently thwarting the court she put her almost pathological hatred of him before the interests of her children.

The final lesson is for fathers. Divorcing and divorced fathers who turn to the websites of various fathers' groups, whether Fathers For Justice, Real Fathers For Justice or any number of similar sites, will be troubled. They will be told that the courts grant residency to fathers in only 7 per cent of cases and that fathers are viewed consistently negatively by both the courts and Cafcass, the public body that advises the courts on the best interests of children. There is little or no evidence to support that belief. The overwhelming majority of residency arrangements are made without court involvement; and where courts do make a determination, their decisions are likely to reflect the reality that, before separation or divorce, the mother was most involved in parenting.

So the fourth lesson is not to give up and to have faith that if it can be seen that it is demonstrably in the interests of a child to live with a father, as it appears to be in this case, judges will do the courageous thing.

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