

# **Legal Roundup - January 2021**

## Brexit and impact on children law

The UK's transition period in respect of its relationship with the EU ended on 11pm on 31 December 2021. During the transition period, the provisions of Brussels IIa (a set of European regulations most importantly governing jurisdiction, recognition and enforcement of orders between countries, transfer of proceedings between countries and requests for assistance and information from one country to another) continued to apply to family proceedings in UK courts. With the transition period over, the position is changed in that Brussels IIa no longer applies to proceedings which began from 1 January 2021 onwards. Many of the issues that Brussels IIa governed will now be addressed by the [1996 Hague Convention in respect of Measures for Protection of Children](#), which contains similar (but not identical) provisions. Cafcass Legal will provide a document setting out further advice about this soon.

## [M v H \(Private Law Vaccination\) \[2020\] EWFC 93 \(15 December 2020\)](#)

In these private law proceedings the court was asked to determine a disagreement between parents as to whether subject children should receive the 'usual' childhood vaccinations recommended by the NHS. MacDonald J directed that the children should receive those vaccinations; he noted that it remained necessary for the court to make decisions where parents with parental responsibility could not agree on vaccination, but that absent special circumstances and peer-reviewed evidence it will be very difficult for a parent to successfully object to vaccination in accordance public health recommendations. He declined to determine a speculative question as to whether the children should receive a vaccination against Covid-19.

## [F v M \[2021\] EWFC 4](#)

In this judgment to a fact-finding hearing Hayden J considered allegations of coercive and controlling behaviour by a father towards a mother, and made substantial findings against the father. He noted that when considering allegations of coercive and controlling behaviour a court may not be assisted by a "*tight, overly formulaic analysis*" encouraged by the use and reliance on Scott Schedules. Individual acts should be considered "*in the context of the wider forensic landscape*".

## Data protection update

**Relevance:** Cafcass processes substantial amounts of sensitive personal information in respect of children, service users and third parties. We are permitted to do so as processing

data is necessary for our role with the family justice system – however we must be sure that we only process information which is relevant. We must not include irrelevant information in reports to the court as this could result in a breach of data rights held by the person to whom the irrelevant data relates.

*Record keeping:* Upon receiving a Subject Access Request, Cafcass is required to provide the requesting person copy of all data held by Cafcass about them a request from a data subject Cafcass can be required to provide copy of data held about that person. Such requests can only be appropriately dealt with if all relevant information is centrally available to the colleague dealing with the request – for this reason, it is important that all information relating to service users, children and third parties is recorded centrally and not solely held locally on a practitioner's laptop.