

The relationship between risk assessment in the Family Court and ongoing criminal proceedings

By [Eleanor Marsh](#)

3PB Barristers

*[FH v MH \(PH12J: Parallel Criminal Proceedings\) \[2026\] EWFC 195 \(B\)](#) highlights an interesting question of the relationship between the assessment of risk within the Family Court and ongoing criminal proceedings. The Court applied the Resolution model, which was considered in the case of **J (A Child) (Resolutions Model) [2021] EWFC 58** – (although this case relates to public law proceedings), finding that the maintaining of a guilty plea within criminal proceedings need not be fatal to an assessment of risk within the Family Courts. The emphasis, instead, is upon whether the party has demonstrated meaningful behavioural change and whether the identifiable risks can be safely managed going forward.*

I acted for the mother in these longstanding private law children proceedings where the final hearing was tasked to consider the extent to which a parent's maintenance of a not guilty plea in criminal proceedings, following serious findings of fact made by the Family Court, should influence the assessment of current and future risk to the children. It also required consideration of the weight to be attached to evidence of meaningful behavioural change and therapeutic intervention where criminal liability remains in issue.

It was in many respects a difficult case for both parties, where the evidence of Cafcass and the father's therapist (Ms Kaur) at various times throughout the proceedings was at direct odds. The most recent final hearing was the third substantive hearing in the case, and the third written judgment.

At an interim hearing in August 2025, the recommendation of Cafcass was for no direct contact to take place between the children and their father in light of the serious findings made by the Court. Perhaps unusually at that stage, the father had been given permission to call Ms Kaur as a witness despite not being appointed as a Part 25 Expert and despite not seeing the judgment from the finding of fact hearing. She recommended that supervised contact commence. The Court accepted and preferred her evidence over the evidence of Cafcass.

Supervised contact then took place between August and December 2025, when at a further hearing, the parties agreed a 'stepped arrangement' to progress contact to overnight contact within a number of weeks. However, on 6th January 2026, the father pleaded 'not guilty' to charges of assault occasioning actual bodily harm and damaging property. The trial is listed for the summer of 2028. The criminal trial essentially covers the most serious incident examined and found to be true in the finding of fact hearing. The mother immediately made a C2 application for direct contact to cease, for updating police disclosure, and for Cafcass to examine the impact of the not guilty plea within their updating Child Impact Report.

At a hearing on 30 January 2026, the Court did not agree that contact should cease but ordered that the contact should not progress to overnight stays and Cafcass were to consider the not guilty plea as part of the preparation for their report. Father was given permission to file and serve an updating letter from Ms Kaur dealing with the same issue.

This evidence is summarised within paragraphs 16-18 of the judgment –

16. Ms Kaur provided a letter dated 11th March 2026, which notes that '...the Respect Domestic Abuse Programme does not involve determining criminal liability or making findings... The intervention focuses on behaviour change, reflective awareness and the development of safer relational responses... Engagement... should not... be interpreted as evidence that risk has been fully addressed or eliminated. Rather, such engagement forms one part of a wider process through which individuals may begin to develop greater awareness and behavioural change over time. Therefore, [father's] plea within the criminal proceedings does not alter the factual account of the sessions delivered, the nature of the therapeutic intervention provided, or the observations recorded within the original report... For these reasons, the content of my previous reports remains an accurate reflection of the work undertaken with [father] within the programme.'

17. Ms Shaw filed a child impact report on 6th April 2026. It is her first report in the proceedings, although the third from CAFCASS. This argues the 'not guilty' plea introduces uncertainty, and points to the disparity between accepting the findings made in the family court, with a denial of the same issues in the criminal court. It notes mother's significant anxiety due to the criminal proceedings. Father is quoted as saying he 'accepted the judge's findings but hasn't admitted guilt... I'm not arguing with the judge... I've accepted what he said... [but] I'm not going guilty on something I haven't done.' Father maintained to CAFCASS that the criminal allegations were made by mother because he 'wanted to see the kids.'

18. Ultimately, Ms Shaw recommends the children should live with mother, and contact should return to supervised, weekly or fortnightly, with father. This until he '...demonstrates stable, consistent insight across all settings (including criminal proceedings).'

At a further directions hearing, the Court determined that the interim contact arrangements should continue despite the recommendations from Cafcass, as there was insufficient time for the Court to hear substantive evidence and the father wished to challenge the recommendations within the report. A further addendum report was ordered to be completed by Cafcass, to include observing contact and speaking with Ms Kaur.

The final Child Impact Report recommendations are summarised within paragraphs 26-28 of the judgment –

26. It is noted that, taking into account the findings, A and B are victims of domestic abuse in their own right. Exposure to such abuse can have a significant impact upon emotional wellbeing, attachment and development. It is noted that the children currently present as settled and developmentally on track. They appear to be functioning well.

27. Ms Shaw notes the position is finely balanced. Whilst supervised contact is no longer recommended, caution is advised. B's need for reassurance should be considered.

28. As such, the recommendation is that the children remain with mother as their primary carer. A shared care arrangement is not deemed appropriate due to previous conflict. Contact should remain as it is, with no overnight progression. Play therapy is recommended for B for a minimum of three months, with progression to overnight considered after this point. Parental interaction should be minimised, with handovers at school or nursery, or via a third party.

Within her oral evidence, Ms Shaw amended her recommendation that play therapy be a pre-requisite to overnight contact, but that this should run alongside. She recommended that overnight contact could commence immediately, but at a much slower pace than proposed by the father.

At the final hearing, the mother sought to challenge the updated recommendations both written and oral, and invited the Court to find that the father had not demonstrated real change, in

light of the updating police disclosure received prior to the hearing, where the father's criminal solicitor had read out a pre-prepared statement within his police interview as follows –

I, [father], say as follows. I deny any form of coercive or controlling behaviour towards [mother]. I have never engaged in negative behaviour that could be termed love bombing or gaslighting towards her. I have never made threats of any nature towards [mother] as a means of getting my own way in our relationship. I have never threatened to cause her physical or emotional harm, and have never attempted to do so. Any of my actions were in self-defence. I made an earnest effort to renovate the property at [REDACTED ADDRESS], whilst continuing to meet the demands of my working life and other areas of life that required attention. If slower progress was made than either of us would've preferred, this was not motivated by maliciousness or to coerce or control [mother], but occurred due to the stresses and strains of ordinary life. I have not sought to cause [mother] any financial hardship through this property.

I have never been financially abusive towards her. I deny efforts to financially control [mother] or use any form of financial regulation as a means of demanding respect from [mother]. I have never started any verbal or physical abuse or assault towards her. There were occasions where she physically assaulted me and I would need to defend myself. My actions were always in self-defence. I deny any of the allegations of assault on holiday or otherwise or elsewhere, including kicking, slapping and punching [mother] when she was pregnant. I cannot know exactly why [mother] is making these allegations. But we are in the process of resolving child custody arrangements in the family court and I believe that her desire to influence the outcome of that is one of the reasons for the allegations.'

The mother maintained that the father's position within the criminal proceedings was identical to his position within the finding of fact hearing (deflecting from his behaviour and blaming her) and that when considering the application of Practice Direct 12J, how could the Court be satisfied that this father had demonstrated meaningful behavioural change?

In evidence, the father maintained that although he stated to the police that his actions were in self-defence, *he still takes accountability for them* (paragraph 58).

Ms Kaur and Ms Shaw on behalf of Cafcass at the final hearing maintained their written recommendations that contact should progress to overnight.

In its application of the law, the Court reminded itself of Practice Direction 12J, in particular paragraphs 36 and 37.

The father had undertaken over 40 one-to-one sessions with Ms Kaur. Her evidence was that whether the father admits to the findings or not, he is *now equipped to deal with situations in which he previously presented as a risk* (paragraph 104). Both Cafcass and Ms Kaur took the view that the father is entitled to defend himself in criminal proceedings, as it is not the admission or acceptance, but the change in behaviour that is important. The Judge agreed that the father is entitled to put a case in his defence when, ultimately, his liberty may be at issue in the criminal court.

At the final hearing, both Cafcass and Ms Kaur were aligned in their recommendations – a distinct change from earlier hearings. They were of the view that in the work that the father has done, the risks have now reduced substantially.

It was the judgment of the Court that contact should now progress, and it did not agree with the mother that any increase to contact would increase the risk to the mother and the children.

Whilst this case turns upon its own facts, this is an issue that many of us encounter within our practices regularly within the Family Courts. As observed by both the professionals and the Court in this specific set of circumstances, the issues are clearly finely balanced and it may well be that in similar circumstances in different proceedings, a Court may well come to an entirely different decision.

It will be interesting to see whether any commentary or discussions arise from this judgment concerning the interplay between Practice Direction 12J and conflicting positions of parties put to both the Family Court and the Criminal Courts in the future.

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If you seek further information, please contact family@3pb.co.uk.



Eleanor Marsh

Barrister

3PB Barristers

0121 289 4333

Eleanor.marsh@3pb.co.uk

3pb.co.uk