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[SQUARE BRACKETS]

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**IN THE FAMILY COURT
AT HAWERA**

**I TE KŌTI WHĀNAU
KI HĀWERA**

**FAM-2015-021-000003
[2021] NZFC 11153**

IN THE MATTER OF	THE CARE OF CHILDREN ACT 2004
BETWEEN	[DAISY RICE] Applicant
AND	[HARVEY CARTWRIGHT] Respondent

Hearing: 28 October 2021

Appearances: B McCorkindale for the Applicant
A Vickers for the Respondent
L Manning as Lawyer for the Child

Judgment: 5 November 2021

JUDGMENT OF JUDGE L HARRISON

Introduction

[1] Ms [Rice] and Mr [Cartwright] are the parents of [Ida Cartwright], born on [date deleted] 2011, now 10 years old.

[2] On 25 November 2019 Ms [Rice] applied to vary the parenting order dated 9 February 2017. She sought to change [Ida]’s day-to-day care arrangement whereby she would become [Ida]’s day-to-day parent and [Ida] would consequently relocate to live with her in [location A].

[3] The application was defended by Mr [Cartwright].

[4] A defended hearing took place on 28 October 2021. The evidence comprised affidavit and oral evidence from the parties.

[5] During the lunch break I met with [Ida] and her court-appointed lawyer, Ms Manning. Details of the meeting were reported to the parties and counsel.

The law

[6] Pursuant to s 56(1)(a) of the Care of Children Act 2004 (“the Act”), an eligible person may apply to vary or discharge a parenting order. Subsection (3) defines ‘eligible person’, which includes a person affected by the order.

[7] Ms [Rice] is therefore an ‘eligible person’ to make an application to vary a parenting order.

[8] Whenever the Court makes decisions about care and contact arrangements for children, s 4 of the Act is the critical provision.

[9] Section 4 provides:

4 Child’s welfare and best interests to be paramount

- (1) The welfare and best interests of a child in his or her particular circumstances must be the first and paramount consideration—
 - (a) in the administration and application of this Act, for example, in proceedings under this Act; and
 - (b) in any other proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child.
- (2) Any person considering the welfare and best interests of a child in his or her particular circumstances—

- (a) must take into account—
 - (i) the principle that decisions affecting the child should be made and implemented within a time frame that is appropriate to the child’s sense of time; and
 - (ii) the principles in section 5; and
 - (b) may take into account the conduct of the person who is seeking to have a role in the upbringing of the child to the extent that that conduct is relevant to the child’s welfare and best interests.
- (3) It must not be presumed that the welfare and best interests of a child (of any age) require the child to be placed in the day-to-day care of a particular person because of that person’s gender.
- (4) This section does not—
- (a) limit section 6 or 83, or subpart 4 of Part 2; or
 - (b) prevent any person from taking into account other matters relevant to the child’s welfare and best interests.

[10] Section 5 is also relevant, which provides:

5 Principles relating to child’s welfare and best interests

The principles relating to a child’s welfare and best interests are that—

- (a) a child’s safety must be protected and, in particular, a child must be protected from all forms of violence (as defined in sections 9(2), 10, and 11 of the Family Violence Act 2018) from all persons, including members of the child’s family, family group, whānau, hapū, and iwi:
- (b) a child’s care, development, and upbringing should be primarily the responsibility of his or her parents and guardians:
- (c) a child’s care, development, and upbringing should be facilitated by ongoing consultation and co-operation between his or her parents, guardians, and any other person having a role in his or her care under a parenting or guardianship order:
- (d) a child should have continuity in his or her care, development, and upbringing:
- (e) a child should continue to have a relationship with both of his or her parents, and that a child’s relationship with his or her family group, whānau, hapū, or iwi should be preserved and strengthened:
- (f) a child’s identity (including, without limitation, his or her culture, language, and religious denomination and practice) should be preserved and strengthened.

[11] Counsel have referred to the relocation case from the Supreme Court, *Kacem v Bashir* where the court considered the application of the s 5 principles.¹ In particular the principle in s 5(d), that a child should have continuity in his or her care, development and upbringing does not mean that principle must be given presumptive weight in relocation cases. All relevant s 5 factors are to be considered.

[12] The Court of Appeal in *D v S* and the District Court in *Stadniczenko v Stadniczenko* have set out various principles to be applied in relocation cases.² I adopt those principles in the present case, where applicable.

[13] Section 6 of the Act is also relevant, which provides:

6 Child's views

- (1) This subsection applies to proceedings involving—
 - (a) the guardianship of, or the role of providing day-to-day care for, or contact with, a child; or
 - (b) the administration of property belonging to, or held in trust for, a child; or
 - (c) the application of the income of property of that kind.
- (2) In proceedings to which subsection (1) applies, -
 - (a) a child must be given reasonable opportunities to express views on matters affecting the child; and
 - (b) any views the child expresses (either directly or through a representative) must be taken into account.

Ms [Rice]'s position

[14] Ms [Rice]'s position is encapsulated in her counsel, Mr McCorkindale's, conclusion at para 105 of his submissions dated 27 October 2021, namely:

- (a) [Ida] will be able to cope with the change;
- (b) Mr [Cartwright]'s bond with [Ida] is strong enough to survive the change;

¹ *Kacem v Bashir* [2010] NZSC 112, [2010] NZFLR 884, [2011] 2 NZLR 1.

² *D v S* [2002] NZFLR 116 (CA); and *Stadniczenko v Stadniczenko* [1995] NZFLR 993 (DC).

- (c) [Ida] is entitled to have an opportunity to fully explore a more meaningful relationship with her mother and maternal relatives;
- (d) [Ida] is reaching the age and stage where [location A] and the surrounding area has more potential for her to take advantage of;
- (e) [Ida]’s schooling beyond 2022 is uncertain and a transition will be required irrespective of the outcome of Ms [Rice]’s application;
- (f) Ms [Rice] is best placed to meet [Ida]’s developmental needs as she progresses into her teenage years; and
- (g) Ms [Rice] will promote Mr [Cartwright]’s relationship with [Ida] in a more meaningful way than Mr [Cartwright] has done for her.

[15] It is proposed that [Ida]’s day-to-day care arrangement changes just prior to the start of school in 2023.

Mr [Cartwright]’s position

[16] Mr [Cartwright]’s position is stated in Ms Vickers’ written submissions dated 27 October 2021, namely there is no reason to change the current care arrangement.

[17] The applicant’s reasons for change are reasons that are important to her, not to [Ida].

[18] [Ida] has made it very clear she wishes to remain in [location B].

Lawyer for child’s position

[19] As required by law, [Ida] has been given opportunities to express her views throughout the proceedings. Her views are before the court by way of reports from Ms Manning, the judicial meeting, and from her parents.

[20] In her written submissions dated 27 October 2021 Ms Manning outlined [Ida]'s views that have been consistently held throughout the proceedings (save for those expressed at my meeting with [Ida] on the date of hearing) namely:

- (a) [Ida] wants to remain living in [location B];
- (b) [Ida] does not enjoy the travel between [location B] and [location A];
and
- (c) [Ida] enjoys spending time with both of her parents

[21] At the last meeting Ms Manning had with [Ida] before the hearing, her views included:

- (a) If her mum returned to [location B], she would like to spend more time with her; and
- (b) She has a wide friend group and would like to reduce the time she spends in [location A] in the holidays.

[22] When [Ida] and Ms Manning met with me, [Ida] said she would like to live with her mother for her intermediate and high school years, which would be from the end of next year. When she was asked: "How come?" she replied she did not know, just that she would like to.

[23] Ms Manning submits the court should have regard to [Ida]'s wishes with respect to her living and care arrangements. Ms Manning refers to the decision of Judge O'Dwyer in *C v W* and her Honour's comment that the term 'best interests' includes a focus not only on the immediate day-to-day welfare, such as care and nurture, but the longer term development, educational, cultural and familial needs of a child.³

³ *C v W (Custody)* [2005] NZFLR 953 (FC).

[Ida]’s particular circumstances

[24] The consideration of the welfare and best interests of a child must be with regard to the particular child in his or her particular circumstances. An individualised assessment is required. This is to ensure a tailor-made outcome is crafted, being one that is in their welfare and best interests, as opposed to children in general.

[25] [Ida] is [10 years old]. She is intelligent and articulate. Her school reports describe her as having a sparkling personality, a funny sense of humour, a witty and lively personality, that she is self-motivated and confident. She is described as being a star risk-taker, curious and a ‘super thinker’. She has many close friends and she has good relationships with her peers and teachers.

[26] [Ida] is in Year 5 [at school 1]. She is doing well academically, socially and her attendance is very good (93 per cent attendance is referred to as outstanding in the letter from the school dated 13 October 2020).

[27] [Ida] is also involved with sports at school. She participates in [dancing] and she wants to be a leader either with kapa haka or as an ambassador for her school.

[28] [Ida] will be starting intermediate school in 2023.

[29] Her parents met when they were teenagers. They were in their early twenties when they became parents. They separated before she was two years old. Apart from a short time of living just with her parents, [Ida] has lived in a home owned and occupied by her paternal grandparents. Following their separation Mr [Cartwright] moved back to his parents’ home and remains living there.

[30] [Ida] was the subject of Family Court litigation between her parents in early January 2015. Ms [Rice] took her to live in [location deleted] without Mr [Cartwright]’s consent. Mr [Cartwright] was successful in getting an urgent interim parenting order for her day-to-day care and a warrant to enforce the order. [Ida] was returned to Mr [Cartwright] with the involvement of the police. Contact with Ms [Rice] was ordered to be supervised. Mr [Cartwright] did not insist on supervised contact and [Ida]’s care was shared on a 5:5:2:2 basis.

[31] When she was in Ms [Rice]'s care, [Ida] would be in [location A] for the five-day care period and in [location B] for the other two days, staying with Ms [Rice] either at her maternal grandmother's home or with Ms [Rice]'s friends.

[32] A defended hearing for day-to-day care and relocation took place on 19 September 2016. Judge Barkle refused the relocation and granted an interim parenting order for Mr [Cartwright] having the day-to-day care and Ms [Rice] contact. However, the order was never made final.

[33] Judge Barkle left the door open for [Ida]'s mother to share [Ida]'s care with Mr [Cartwright] if she chose to return to [location B]. In that regard, his Honour deferred confirmation of a final parenting order to 31 January 2017. Ms [Rice] chose to share the care of [Ida].

[34] On 9 February 2017, Judge Barkle made a parenting order for week-about shared care for [Ida]. Her place of residence was reordered to be [location B].

[35] The week-on, week-off arrangement only lasted for a short time. Ms [Rice] was based in [location A] but would travel to [location B] for her care week. This proved unsustainable due to the medical issues that were confronting Ms [Rice]'s second child.

[36] [Ida] became a big sister to [Ella Hansman], Ms [Rice]'s daughter, born on [date deleted] 2017. Ms [Rice] is no longer in a relationship with [Ella]'s father.

[37] [Ella] has [health condition deleted] and had health issues which has required Ms [Rice]'s increased attention and therefore reduced her availability for contact with [Ida] somewhat. [Ella]'s health has improved and no longer has a significant impact on Ms [Rice]'s availability to spend time with [Ida].

[38] [Ida] again became a big sister when Mr [Cartwright] and his partner, [Scarlett], had [a child] in 2019. [Scarlett] has [two children from a previous relationship]. Mr [Cartwright], [Scarlett], [their three children] all live together.

[39] [Ida] has had regular contact with Ms [Rice], which has occurred both in [location A] and [location B]. Since the parties agreed to extend the time [Ida] is with Ms [Rice] during school holidays, Ms [Rice] has spent less time in [location B] and is less involved with [Ida]’s life in [location B]. However, she will be attending this year’s school camp with [Ida].

[40] Both Mr [Cartwright] and Ms [Rice] are employed: Mr [Cartwright] works full time; Ms [Rice] works three days a week.

Safety

[41] There are no safety issues for [Ida] if she is in the day-to-day care of either parent.

Parental responsibility

[42] [Ida]’s care, development and upbringing is the primary responsibility of her parents. Both of her parents need to rely on other people to assist when their work commitments clash with their parenting responsibilities. Ms [Rice] is concerned about the lack of hands-on contact Mr [Cartwright] has with [Ida].

[43] Mr [Cartwright] works a rolling roster four days on, four days off. Ms [Rice] argues he is unavailable for [Ida] and has to rely on others to care for her whereas she is more available for [Ida]. Furthermore, Ms [Rice] argues it is better for [Ida] to be parented by either her mother or father rather than other people.

[44] When on a morning shift (5 am to 5 pm), Mr [Cartwright] relies on his partner or his mother to assist with [Ida] for approximately two hours in the morning before school from when she wakes up, and approximately two hours after school before Mr [Cartwright] gets home. When on a night shift (5 pm to 5 am) he relies on them to assist with [Ida] in the evening.

[45] I am satisfied Mr [Cartwright]’s leisure time is not consumed by sporting commitments. I accept his evidence that he spends time with his family.

[46] Ms [Rice] works and relies on her mother (who is now living permanently in [location A]) to assist with [Ella] before school for about half an hour.

[47] There is no evidence of any detriment to [Ida] being cared for by her father's partner or her grandmother. Her paternal grandmother has been closely involved in [Ida]'s care all of her life. The fact that various people help out is what [Ida] knows and is used to.

Co-operation and consultation

[48] Ms [Rice] is critical of Mr [Cartwright]'s attitude toward her. She believes Judge Barkle's optimism that Mr [Cartwright] was better able to promote [Ida]'s relationship with her mother than Ms [Rice] was able to with [Ida]'s relationship with her father, was misplaced and now proven to be wrong.

[49] I have no doubt, having seen and heard the parties, that the effects of Ms [Rice]'s poor decision making in 2015 continues to have an impact on Mr [Cartwright]. Unfortunately, [Ida]'s parents do not enjoy a high level of trust and confidence in one another. Opportunities for [Ida] to spend time with her mother over and above the terms of the prescribed contact have not been optimised by Mr [Cartwright], having made relevant concessions during cross-examination.

[50] Ms [Rice] argues that her proposal for [Ida]'s contact with Mr [Cartwright] should she live in [location A] is more generous than his contact proposal for her. It is in Ms [Rice]'s favour to offer generous contact as she is the party wanting to remove [Ida] from Mr [Cartwright]'s care. However, her proposal involves [Ida] missing school on a Monday twice a term.

[51] Communication is difficult and it is apparent that [Ida] is the messenger and go-between. I make it quite plain to Ms [Rice] and Mr [Cartwright] that this is not acceptable.

[52] Communication difficulties often underscore litigation under the Act. The situation in [Ida]'s case is not to an extent that I consider a change of care is necessitated for the reason of poor communication alone.

[53] There is no evidence that [Ida] is being negatively impacted by those few missed opportunities to see her mother when travelling out of the region with her father or when her father has not been present in [location B] when her mother has.

Continuity

[54] A change to live with Ms [Rice] will disrupt the continuity of [Ida]’s day-to-day care arrangement with Mr [Cartwright], but it is not limited to simply a change of address. In this case changing [Ida]’s day-to-day caregiver will necessitate a geographical change of location for [Ida] and the disruption to her friend base.

[55] If she remains living in [location B] she will continue to be in the day-to-day care of her father.

[56] Ms [Rice] proposes that [Ida] remains at [school 1] for her last year of primary school in 2022, which will mitigate against disrupting her education.

[57] Regardless of where [Ida] lives in 2023 she will have finished her primary schooling and will be at intermediate school. There is uncertainty as to what school that will be if she is in [location B].

[58] [Location B] Intermediate School is to close at the end of 2022. [Location B] High School will also close. The Ministry of Education intends for there to be a new Year 7–13 school established in [location B] in 2023. There is a possibility that [school 1] will offer an intermediate year in 2023.

[59] If she is living in [location A] her mother referred to [location A] Intermediate School in oral evidence. In an earlier affidavit she mentioned [school 2]. I take it from her evidence that no particular intermediate school has been identified as being the school that [Ida] will go to in 2023.

[60] [Ida] has close friends who go to [school 1]. She has regular playdates and sleepovers with them. Her friend group will inevitably change over the years and it is unknown which of her friends will or will not continue their education in [location B].

Remaining in [location B] provides her with a better chance of maintaining her friend group than living at a distance from them in [location A].

[61] Establishing a new life in a different place, connecting with new people, and making friends takes time and effort. [Ida] has made some friends in [location A] over the time she has been going there and she has a base to start from, at least.

[62] Ms [Rice] argues that [location A] offers benefits to [Ida] due to its geography being close to bigger cities such as Hamilton, Auckland and Tauranga. There is no evidence of how that may benefit her other than speculation about her ongoing education after she completes secondary school. In any event access benefits such as employment and continuing education are sometime away for [Ida] and remain available and accessible to her from either [location B] or [location A].

[63] She has expressed a dislike for the travel required between [location B] and [location A]. This is a disruption for her. Leaving her friends during the school holidays is an interruption for her. Whoever she lives with, the burden of travel will continue to be a factor because her parents do not live in close proximity to each other.

Relationships

[64] Regardless of whether she lives with Ms [Rice] or Mr [Cartwright], she will continue to have a relationship with both of her parents.

[65] The advantage of living with Ms [Rice] is that she will see significantly more of her than is presently happening. She will also see more of her maternal grandmother who now lives in [location A].

[66] If she were to live with Ms [Rice], she would also be living with [Ella]. [Ella] spends time with her father each week from Saturday afternoon to Sunday afternoon. This creates an opportunity for one-on-one time for [Ida] and her mother.

[67] The disadvantage of living with Ms [Rice] is she will see significantly less of her father, [Scarlett], the children of their household and her paternal grandmother.

[68] The Court has the benefit of a known care arrangement for [Ida] with Mr [Cartwright] where [Ida] is thriving in his care. She is achieving well at school. There are no indicators of [Ida] being adversely impacted by the current care or contact arrangement; indeed, they are meeting her needs.

[69] Ms [Rice] made it clear in her oral evidence, she has no desire to return to [location B] and does not want to live there. She relocated to [location A] because she was in a relationship with Mr [Hansman] and she had secured employment with racehorses. She has subsequently had a second child. Mr [Hansman] is said to be opposed to [Ella] living out of the region.

[70] Mr [Cartwright] is not able to easily move from [location B] given his work and family commitments. Moving to [location A] is not an option for him.

[Ida]’s views

[71] I take into account [Ida]’s views. I place moderate weight on her views.

[72] When she has told her lawyer that she wants to remain living in [location B], she has done so when she has been living with her father.

[73] [Ida] expressed a different view when she met me. She had been staying with her mother in [location B], prior to the hearing. Her mother brought her to the court for the meeting.

[74] [Ida] is aware of the different positions held by her parents.

[75] She has experienced a shared care arrangement. She has predominantly experienced a long-distance relationship with her mother and the consequences of that include long travel and how her time away from [location B] erodes her time with her friends. Those consequences are transferable regardless of where she lives.

[76] I am mindful of her age and stage of development. Peers will become increasingly important to her as she gets older. She has not yet reached puberty, but

she lives with two adult females, her grandmother and father's partner who will be able to assist and guide her when necessary. Further, Ms [Rice] is a phone call away.

Conclusion

[77] Ms [Rice] has chosen to live at a distance from [Ida]. She has done that for her own reasons.

[78] She wants to be able to parent [Ida] and considers it is her turn to do so.

[79] In oral evidence she said she had made the application to the Court because [Ida] had told her she wanted to live with her. That had not been referred to in any of her affidavit evidence.

[80] Ms [Rice] acknowledges her court application necessitates a change for [Ida] but that it is not a big change. Having considered the evidence, I do not share her view. I consider the changes contemplated for [Ida] are great.

[81] Ms [Rice] believes [Ida] will adjust and cope, especially given the contact she is proposing. In evidence she referred to it as being "lots of time" and a "huge amount".

[82] Change for the sake of change is not in the welfare and best interests of [Ida].

[83] While there are plenty of changes ahead for [Ida], such as puberty, intermediate school, high school, if she remains in [location B] she will be tackling or navigating change from a stable, secure home-base and environment that she is thriving in.

[84] Mr [Cartwright]'s main concern, which I share, and biggest fear is that [Ida] will struggle emotionally with a move away. She will be leaving everything that she knows and anything that is working well for her currently.

[85] I note that the move would not be for another 14 months. It is unknown how the knowledge of a deferred move away will affect [Ida] in the meantime.

[86] I am not satisfied that a change of roles will lead to better communication between [Ida]’s parents nor that a generous contact arrangement for Mr [Cartwright] will be sustainable by all parties, including [Ida], given her dislike of the travel.

Outcome

[87] The application for [Ida]’s day-to-day care arrangement to change to Ms [Rice]’s care in [location A] is declined.

Changing contact

[88] An alternative outcome mentioned in Ms [Rice]’s application in 2019 was for her contact time with [Ida] to be increased.

[89] The variation order dated 5 January 2021 reflects recently agreed changes to the contact regime, including arrangements for term time, Christmas school holidays and long weekends. There is weekly contact with Ms [Rice] by Skype and telephone on Tuesdays and Thursdays and at other times when requested by [Ida].

[90] In evidence Ms [Rice] mentioned her frustration with having to return [Ida] on the Wednesday of the school holidays if Mr [Cartwright] is working until the Friday and not going to be available for [Ida].

[91] Ms [Rice] proposes that [Ida] stay with her on the weekends from after school Friday until she is returned to [location B] later on the Monday. In other words, taking the Monday off school is required.

[92] Ms [Rice] spoke of the difficulty in arranging weekend contact with Mr [Cartwright].

[93] If [Ida] is to remain living in [location B] then Ms [Rice] proposes contact as follows:

- (a) On two weekends each school term from 5.30 pm Friday to 3 pm Monday unless Monday is a long weekend, in which case the return is

3 pm Tuesday. Her intention being weekend contact occurs in [location A];

(b) For two weeks of each school holiday; and

(c) For four weeks of the Christmas school holidays.

[94] I decline to permit Ms [Rice] to have all of the school holiday time. [Ida] needs to be able to spend holiday time with Mr [Cartwright]. In his evidence, three to four days away is a decent holiday and a return on the Wednesday enables that.

[95] Regardless of whether Mr [Cartwright] is available or not from the Wednesday she is returned, it provides [Ida] an opportunity to spend time with her friends before they go back to school, which is important for [Ida].

[96] I permit contact to occur on two weekends during each school term from 5.30 pm Friday to Sunday 5.30 pm. One of the term time weekends shall occur in [location B].

[97] I consider it to be important for [Ida], for her mother to resume a presence in [location B] and is involved with [Ida]’s life in [location B]. Ms [Rice]’s objections around coming to [location B] for contact include the practical difficulties of having to rely on friends to accommodate herself and [Ella]. And that she is her for such a short time. Having heard her evidence there is a possibility for [Ella] to stay in [location A]. Ms [Rice] is available on weekend days, and in fact finishes work at 11 am on a Friday morning. She could therefore be in [location B] in time to collect [Ida] from school. When being cross examined, Ms [Rice] said she would make more of an effort to come to [location B] next year, in the context of assisting [Ida] with a transition – had I ordered a change of care in 2023.

[98] I direct that Public Holiday long weekends are to be utilised for contact in [location A], unless the parties agree in writing otherwise. I direct a return at 5.30 pm on the Public Holiday if that is a day before school starts. If the Friday is a Public Holiday, contact starts from 5.30 pm on the Thursday and ends 5.30 pm Sunday.

[99] Ms [Rice] proposed various conditions but in oral evidence conceded her proposal for [Ida] stay with the non-caregiver parent in the event of an emergency was unpracticable given the distance between them. She also agreed to do away with her proposed condition that both parents notify one another when [Ida] is staying overnight anywhere other than their respective homes.

[100] Ms [Rice] proposes that all of [Ida]’s medical issues, emergencies and illnesses need to be communicated by phone or text.

[101] Ms [Rice] also proposes a condition about the sharing of school information by the day to day parent to the other parent. I consider that to be unnecessary and cumbersome on the day to day parent given the easy access to school information via an app that is available to both of [Ida]’s parents.

[102] Ms [Rice] is not prohibited or restricted in any way from seeking guardianship information directly from the school or [Ida]’s doctor.

[103] I am satisfied that communication counselling will assist [Ida]’s parents to understand the kind of information that ought to be shared or is specifically requested to be shared and how best to communicate about matters relating to [Ida].

[104] At my invitation at the end of the hearing, the parties and counsel turned their minds to a contact arrangement in the event of disruption by virtue of COVID-19. There was recent conflict created by differing views on how to manage the Alert Levels during the August school holidays.

[105] I am thankful for the agreed way forward and adopt the handwritten understandings reached on 28 October 2021. These are outlined below.

[106] I note as a matter of record that [Ida] will be vaccinated when she is able to be. I infer that relates to her COVID vaccinations.

Conclusion

[107] I adopt the proposed parenting order submitted on behalf of Mr [Cartwright], which includes the COVID-19 understandings as to how to manage a change in Alert Levels.

Outcome

[108] I discharge all parenting orders and variation orders relating to [Ida].

[109] I grant a parenting order on the following terms:

- (a) [Harvey Cartwright] has the role of providing the day-to-day care of [Ida Cartwright], born [date deleted] 2011.
- (b) [Daisy Rice] is to have contact with [Ida] on the following basis:
 - (i) Each school term holiday from the first Saturday until the Wednesday immediately before school resumes.
 - (ii) For one weekend during each school term in [location A]. Term 1 is to coincide with Taranaki Anniversary Weekend. Term 2 to coincide with Queen's Birthday Weekend. Term 3 to be after [Ida]'s fifth week at school. Term 4 to coincide with Labour Weekend.
 - (iii) For one weekend during each school term in [location B], subject to Ms [Rice]'s availability.
 - (iv) In odd-numbered years commencing 2021 from 27 December until 24 January.
 - (v) In even-numbered years commencing 2022 from 23 December until 18 January.

- (vi) Telephone and video calling at 6.30 pm on Tuesdays and Thursdays and any other time as requested or initiated by [Ida].
 - (vii) All contact changeovers take place at the public toilets in [location deleted] unless such other agreements have been reached between the parties in writing.
 - (viii) The time for the changeovers shall be 5.30 pm.
 - (ix) If the public holiday falls on a Friday, then contact will start from 5.30 pm on the Thursday.
 - (x) Contact shall occur at times to be agreed when [Daisy Rice] is in the Taranaki Region. She is to give no less than one week's notice.
- (c) It is a condition of the parenting order that each party shall notify the other about all medical issues, emergencies and illnesses for [Ida] by phone or text.

Understandings (to be included in the parenting order)

[110] If during periods of contact COVID restrictions apply, then subject to the Ministry of Health guidelines, the parties agree to the following:

- (a) In Level 4, [Ida] will return to her primary residence as soon as possible. Contact by indirect means will occur as often as possible with her mother.
- (b) In Level 3, if [Ida] is not attending school in person then additional contact may occur if there is agreement in writing. Writing shall include text, email or letter. Any contact provided in the parenting order is to take place.
- (c) In Levels 2 and 3, the usual contact arrangements apply.

- (d) When the traffic light system is implemented by the New Zealand Government, green means usual contact, orange means usual contact, red means usual contact if regional or inter-district travel is permitted.

Directions

[111] I refer the parties to communication counselling and allocate 12 sessions.

[112] I required Ms Manning to report my decision to [Ida] and to confirm with the Court when she has done so.

Costs

[113] If there is an issue about costs, then counsel for Mr [Cartwright] is to file a memorandum and submissions within seven days of receipt of this decision.

[114] Counsel for Ms [Rice] shall file his memorandum and submissions in reply seven days thereafter.

[115] The matter of costs shall be determined on the papers.

[116] Counsel shall also provide submissions on cost contribution orders and whether or not such costs ought to be ordered in this case.

Judge L Harrison
Family Court Judge | Kaiwhakawā o te Kōti Whānau
Date of authentication | Rā motuhēhēnga: 07/11/2021