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Re H-N and Others (Children) (Domestic Abuse: Finding of fact hearings)

[2021] EWCA Civ 448

30/03/2021

Barristers
Christopher Hames KC
Charlotte Baker
Jo Delahunty KC
Chris Barnes
Charles Hale KC
Adele Cameron-Douglas
Rebecca Foulkes
Miriam Best
Teertha Gupta KC
Matthew Persson
Clarissa Wigoder
Mark Jarman KC
Michael Gration KC
Barbara Mills KC
Joy Brereton KC
Emma Spruce

Court
Court of Appeal

Practice Areas
Private Children Law
Court of Appeal (Sir Andrew McFarlane, President of the Family Division; Lady Justice King and Lord Justice Holroyde)

This case involved 4 conjoined appeals from orders made in private law children proceedings concerning allegations of domestic abuse.

The court determined not only the individual appeals but gave additional guidance on the following key questions:

- How and when should a fact finding hearing take place?
- How should the family court treat allegations of marital or partnership rape? Should there be an interplay with criminal law principles?

- How should the Family Court treat allegations of coercive and controlling behaviour?
- How should Practice Directions 12J and 3AA be applied?
- Following a fact finding hearing what is the proper approach in private law proceedings where there have been findings of domestic abuse and where allegations of domestic abuse have been dismissed?

The court permitted the intervention of Cafcass; Rights of Women, Women's Aid Federation of England, Welsh Women's Aid and Rape Crisis England & Wales; Families Need Fathers; and Association of Lawyers for Children given the importance of the issues.

To read the full judgment click here.

Permission