

WHITE PAPER CONFERENCE 2023

PRIVATE CHILDREN LAW

**SECTION 7 REPORTS:
HOW DO YOU CHALLENGE AN
UNFAVOURABLE SECTION 7 REPORT AND
PERSUADE THE COURT NOT TO FOLLOW
ITS RECOMMENDATIONS, BACKED UP BY
REAL-LIFE EXAMPLES FROM PRACTICE?**

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Introduction

1. We all know the feeling. The moment arrives when the section 7 report drops into our inboxes. We flick instinctively to the end, straight to the recommendations, because we know how influential they are likely to be with our judge, how much easier it will be to encourage our tribunal to follow the advice of the section 7 reporter than to dismantle their analysis. And we read those recommendations with full appreciation of the binary starkness of the immediate aftermath. It will either be an overwhelming sense of relief, perhaps a relaxed evening with a glass of Malbec in front of Ted Lasso repeats, or it will be an immediate descent into despair at the potentially Herculean challenge that lies ahead, accompanied perhaps by a few choice words from the Dominic Cummings lexicon of polite political expression.
2. This talk looks at the latter scenario – where the section 7 report is unfavourable and where your task quite simply is to persuade the court not to follow its recommendations, though, if truth be told, there will be little simple about that task.
3. My White Paper instructions ask me to back up what I shall say with “real-life examples from practice”, which is all very well, save that, insofar as I derive those examples from my own practice (as I largely do) and insofar as any case I draw on is not published, I am naturally limited in what I can say about the case, even in this era of transparency, by section 12 Administration of Justice Act 1960. Much though I love the White Paper Conference, I am not about to risk a finding of contempt of court being made against me so have taken care not to reveal any case identifying confidential features.
4. So, this now being my ninth White Paper Conference, I hope that you can take it on trust that such tips as I give are based on genuine experience of practice and are not just the product of my fanciful imagination.
5. But, before I get into all of that, it is perhaps sensible to remind ourselves of how as a matter of law the court is meant to approach the recommendations of the section 7 reporter. And I take my synopsis of the law from the current edition of the *Dictionary*

of *Private Children Law*, Saunders, George and someone called Pressdee, available from all good book shops and some pretty ropey ones too. And I alight upon the entry on welfare reports, which I make clear is not one of my own – after all who other than the great Nicholas Mostyn quotes with such ready approval their own words – and that entry reads in material part as follows:

The court is not bound to follow the recommendation contained in a welfare report....

“Professional advice is usually of great assistance to judges, but in the end it is judges that decide cases and it is not uncommon for them to differ from advice, particularly where the decision is finely balanced” ...

[That is Lord Justice Peter Jackson in *L (Relocation: Second Appeal)* [2017] EWCA Civ 2121, to which I shall return later].

However, in the words of Lord Justice Rusell in *V (Residence: Review)* [1995] 2 FLR 1010, the entry continues: “it is good practice for any tribunal which disagrees with a recommendation made by a court welfare officer to deal with the reasons advanced by the court welfare officer adequately, so as to demonstrate why the court is departing from their view”.

6. That legal summary to some extent, though, masks two realities of day-to-day practice.
7. First, that courts just find it so much easier to follow the recommendations of the section 7 reporter. In large part, that is because, as the eyes and ears of the court (as they used to be described when I first started practice), they have undertaken the first-hand enquiries and interviews and may have a feel for the case that the court, in the more limited time available to it, simply does not have. But also, being slightly cynical, and perhaps especially where the recommendation comes from a reporter whom the tribunal already knows and rates, I think that, where the case is finely balanced, a section 7 recommendation provides for the court a comforting route out of a difficult decision, and conversely, in the less challenging case, following a section 7 recommendation allows the court some degree of mental respite from the tougher and more anxious decisions it has to take.
8. Secondly, that, while I do not disagree per se with the observation of Lord Justice Peter Jackson that it is not uncommon for judges to differ from the section 7 reporter’s recommendations, particularly where the decision is finely balanced, the reality of

practice is that, the higher the judge, the more likely they are to have the self-confidence and to allot themselves the time to do that, and most private children law cases are of course now dealt with at the lower levels of the judicial ladder.

9. With those introductory words said, here are my own modest tips, based, yes, on real-life examples from practice, on what to do when faced with the unfavourable section 7 report.

Tip one – scrutinise the report

10. Tip one may seem an obvious one – scrutinise the report, but that scrutiny falls under a number of different headings, which I address in no particular order.

Law

11. Scrutinise whether the section 7 reporter has approached and analysed the matters in issue in a manner that is – and is demonstrably – legally sound. Has their recommendation arisen out of a proper understanding of the relevant legal principles? For that is not a given. They are not lawyers after all and their understanding of the law is likely to be only as good as their training, and self-evidently, if their recommendation flows from a skewed understanding of the law, then it follows that it will only be of limited (if any) use to the court.
12. In a recent relocation case I did, I secured a new section 7 report, to be prepared by an independent social worker, in large part on the basis that the Cafcass officer had in effect misdirected themselves as to the law, that they had failed to approach the question of relocation in a manner that was – and was demonstrably – consistent with the now established case-law. One might think that enough water has flown under the relocation legal bridge in recent years for that not to occur. Not so.
13. In that case, I argued that the section 7 reporter had undertaken an impermissibly linear approach to the relocation/non-relocation issue – that they had in effect asked themselves the question: “can relocation be made to work?” or even “how can relocation be made to work?”, with no mention, let alone evaluation of the father’s

counter-case for an equal division of the child's care. As the case-law now makes very clear, what is required in the relocation case is a global holistic assessment of the child's welfare, with an evaluation of each of the options for their future care, with the court conducting a parallel analysis of the pros and cons of each to determine which outcome best meets the child's welfare interests. Self-evidently, I said – and the court agreed - for the section 7 report to be of use and assistance to the court, it should mirror the approach in law that the court has to adopt.

14. So consider the relevant law and whether the section 7 report applies it correctly.

15. And, whilst the relocation case is perhaps the most obvious example of where the section 7 reporter might go wrong, it is by no means the only one.

16. To give another example, in my experience, it is not unusual for the section 7 reporter to have an imperfect understanding of when a prohibited steps order should be made and accordingly recommend their making in cases where they are not really warranted. Yes, in considering whether to grant a PSO, the child's best interests is the court's paramount consideration, but a PSO, being a statutory restriction on the exercise by a parent of their parental responsibility and an interference with the Article 8 rights of both parent restrained and subject child, it should only be made on objective evidence, there is a high responsibility on the court not to impose such a restriction without good cause, and the making of, terms of, and duration of a PSO must be proportionate to the mischief that the order is designed to address.

17. So, in a case where the making of a prohibited steps order is in issue, and where it has been considered and especially recommended by a section 7 reporter, look to see whether they have applied the test that I have just set out.

Findings, facts and orders

18. Next, findings, facts and orders. In any case where there have been past proceedings or in the instant proceedings, in particular where a fact-finding hearing has taken place, scrutinise whether the section 7 reporter has correctly recorded and properly

understood any orders and findings that have been made – and, in the case of findings, accepted that what the court has found as fact represents the truth of what has occurred.

19. In a case I did not so long ago, I managed to discredit a section 7 report and obtain a new one on the basis, I argued, that the original report was not grounded on a clear and proper understanding and acceptance of the findings that the court had actually made at the fact-finding hearing.
20. The section 7 reporter in that case had within their report elevated some at best preliminary observations of the judge (recorded in the recital to the order made following the fact-finding hearing) about whether or not this was a case of parental alienation – an issue on which the court had as of then received no submissions - to the status of a bespoke finding.
21. And then, perhaps on the back of that misapprehension, the section 7 reporter had gone further, expressly indicating that they had accepted the court’s findings about whether or not the mother’s relocation application was motivated by a desire to exclude the father from the child’s life, when the court had in fact made no such finding.
22. And these were serious failings on the part of the section 7 reporter. For it meant that they had not investigated those issues and as such had reached an overall conclusion uninformed by full and proper investigation, as well as being one plainly shaped by their belief in findings that had not actually been made.
23. And, in the same case, the section 7 reporter had made a recommendation for holiday contact that limited the number of consecutive nights that the child would have with the father, seemingly without realising that the court’s last interim order had already afforded him longer periods of time coming up.
24. In a different case of mine, which went to final hearing, in which the section 7 recommendation was not followed, and where there had been earlier proceedings, the Cafcass officer had somehow contrived to get the underlying legal position in the case

wrong, asserting that the prevailing order provided that the children concerned lived with their mother and spent time with their father, when the order was actually very clear that the children lived with both their parents, and when there was in fact a paragraph in the previous judge's judgment explaining exactly why a shared 'live with' order was appropriate. And, in the same case, the Cafcass officer interviewed the eldest child, whose wishes and feelings were of real importance, on the basis that the judge had previously decided that the mother had exaggerated how abusive the father was, when the judge had actually found the father not to be abusive at all. Failings which brought into question the section 7 reporter's attention to detail, their basic understanding of the case and the soundness of their interviews with the children, and which collectively had a material impact on the Cafcass officer's recommendation, which, as I say, was not ultimately followed.

25. So do check whether the section 7 reporter has understood the basics of the case and be especially vigilant where a past judgment has been misreported by one of the parties in their own evidence. In one case of mine, an earlier judgment had found my client to be the dominant personality in the family, that had been recorded by the mother in her statement as a finding that he was domineering, and, lo and behold, when the section 7 report came out, it used the word 'domineering' not 'dominant'.
26. Under this sub-heading, I have mainly looked at the reporter's understanding of past orders and findings made, but, allied to the above, where there are residual factual disputes in the case, the reporter should bear in mind that their resolution is not a matter for them but is the province of the judge at the final and/or fact-finding hearing – something routinely marked up in the letter of instruction to an independent social worker. And of course the report in itself needs to be factually accurate.

Enquiries and responses to instructions

27. When you receive the section 7 report, scrutinise also whether its author has carried out all the enquiries and assessments that they should have done and at the appropriate time and addressed all the issues and factors that the court would want addressing.

28. With a Cafcass report, what is required may be implicit in its commissioning or spelt out in a court order. With an ISW report, that is likely to be set out in some detail in their letter of instruction.
29. In a recent case I did, I managed to convince my court not to follow the section 7 recommendation on the basis that it had been largely informed by the child's wishes, as ascertained by the reporter, for more time with their father, but where (by reason of his work commitments) the child had been interviewed at a point where they had not seen their father for some weeks. The reporter had somewhat surprisingly failed to ask the child how frequently they would want to see their father, so the question properly arose as to what the child was actually asking for more time than – more than the arrangement in place before the gap or more than nothing, which is what they had been experiencing over the past few weeks.
30. In another case I did, in which the issue of alienation was central, a new Cafcass officer had come into the case shortly before trial, taking over from a colleague, and produced a report almost entirely grounded on the outcome of their single interview with the children, with that new officer having not themselves interviewed either parent. And as a result their recommendation was open to attack for having over-emphasised in the welfare balancing exercise the outwardly expressed views of the children.

Construction

31. Next, in terms of your scrutiny, any section 7 report should be clear, consistent, coherent and realistic in its analysis and recommendations, so that the court and parties can see how those recommendations were arrived at and be satisfied that the building blocks upon which they were constructed are secure.

Fairness

32. And finally, the section 7 process needs to be fair, so, for example, no taking into account material not properly in evidence, no discussing with one parent an issue or proposal not discussed with the other, and I have seen both those mistakes in practice.

Tip two – consider what do next

33. Tip two is pretty obvious too – consider what to do next.

34. Essentially, when you find yourselves in receipt of an unfavourable section 7 report, and particularly one which you feel is open to attack, you have the following options:

- (1) if the report was prepared by an independent social worker, so, as I will shortly explain, an expert for the purposes of the Rules, to ask questions of clarification of that report under FPR, rule 25.10;
- (2) simply to elect to cross-examine the section 7 reporter at trial;
- (3) to seek an addendum report from the author of the section 7 report, addressing certain identified issues not sufficiently addressed in their original report;
- (4) to make an application for a further section 7 report, to be prepared by someone else, so typically this would be an application for a report to be prepared by an independent social worker following receipt of an adverse Cafcass report.

35. So how do you choose between those options?

36. Option 1 – questions of clarification – is as a matter of law not available where the report has been prepared by a Cafcass officer, as FPR, rule 25.10, does not arise. But is an ISW an expert for the purposes of the Rules, such that they may be asked questions of clarification? I had always assumed that it was a given that they were, but, in a case I did earlier this year, that was disputed by my opposition, so I found myself drawing attention to section 7 Children Act 1989, which refers only to Cafcass and local authorities preparing reports under that section, and to section 13(8) Children and Families Act 2014, which specifically excludes Cafcass and local authorities from the ‘control of expert evidence’ provisions of section 13. And, if more were needed, I referenced the case of S v S [2017] EWHC 2345 (Fam), in which, at [10], Lord Justice Peter Jackson expressly categorises an ISW report as an expert report.

37. So do bear in mind that, with an ISW section 7 report, you do have the opportunity to ask questions of clarification, which may allow you to undermine any recommendations made, in particular by exposing any flaws in the analysis that led to

them. But do also bear in mind the limitations of that process. If adhering strictly to the purpose of rule 25.10, it is supposed to be about clarification of matters contained within the report rather than cross-examination in disguise, and, in my experience, courts are becoming rather stricter about ensuring that questions of clarification do not exceed that remit.

38. Option 2 – cross-examining the section 7 reporter – is effectively the default option, to be taken where you cannot bring about a change in recommendation before final hearing, and I shall look at that later.
39. Option 3 – the addendum report. When and why might an addendum report be justified? Well, other than for updating purposes, it would fall to be considered where enquiries that should have been made have not been made and where the section 7 reporter has reached a conclusion on a misapprehension of law and fact. But, for my part, where the section 7 report is unfavourable, I rarely see this option as advisable, as experience tells that it is unlikely that a section 7 reporter will in effect admit that they were wrong first time round and provide a different recommendation in their addendum.
40. Better either to seek an entirely fresh report, if the original report is so flawed as to warrant that step and especially if the court timetable allows, or to save your powder for cross-examination, lest the addendum provide the reporter with the opportunity to shore up their recommendations.
41. That said, there are scenarios – and I have one such case at the moment - where you may feel that the reporter will be open-minded, where the report is not so flawed that an entirely fresh report could be justified and where you can ride on the observations of your court to obtain an addendum without adversely affecting the prospects of your client moving on.
42. And finally, under this general heading of what to do next, onto option 4 - making an application for a further section 7 report, to be prepared by someone else, so typically

an ISW following receipt of an adverse Cafcass report.

43. Why might you seek a fresh report? Well, first, because self-evidently it represents realistically your only chance of going into the final hearing with a favourable section 7 recommendation. Second, because, if that application is successful on the basis that the original report is flawed, it would not just damage that report but effectively write it out of the case altogether. And third, because you may even be criticised at final hearing if you have not made that application and the court is left then with a worthless section 7 report – and perhaps especially if the absence of a final hearing listing meant that time-wise a new report could have been accommodated.

44. And, when you are deciding whether or not to make an application for an entirely fresh report, timing and listing are key factors. For self-evidently, your application is more attractive, your chances of obtaining a new report much greater, if its commissioning would not necessitate the adjournment of any already listed final hearing or otherwise cause undue delay to the conclusion of proceedings. So, especially in a case where there is no listing beyond the DRA and where that unfavourable section 7 report has come in for that DRA, so a ready-made potential hearing for your application, consider whether the pre-emptive strike of making such an application is indicated.

Tip three – make any application for a new report properly

45. Following on from the fresh report application scenario that I have just been looking at, tip three – if you are going to apply for a new report from an ISW, do it properly, as we did in the relocation case that I was mentioning earlier.

46. Make sure that it is in apple pie order, so complying fully with FPR, rules 25.7(2) and (3) and Practice Direction 25C, so including a draft order and letter of instruction, CVs, costings and timescales for each of the ISWs you are putting forward for consideration, and, as is implicit in that, if at all possible, provide a choice of potential reporters.

47. Further, in the full knowledge that such would likely be the main defence to any such application, address squarely why cross-examining the original section 7 reporter

would not suffice and make the case for why an ISW report, being an expert report, would meet the statutory test of necessity – matters to be signposted within the body of your application, to be addressed in your supporting skeleton argument and to be expanded on orally at the hearing of your application.

48. If you are going to entice your court with the prospect of a better quality of report, then consider putting forward (as we did in that case) some well-known ISW names, which may already be familiar to your tribunal, and in respect of whom you can extract, with basic search engine skills, approving judicial soundbites from the published case-law.
49. And I would always recommend backing up your application with a detailed skeleton argument for the hearing at which it will be heard, which recognises upfront that the ISW instruction sought could only be countenanced were the court to find fault with the original report and be satisfied that these were not faults that could be fairly addressed by cross-examination or an addendum report.
50. In writing and orally, you may wish to underscore the difficulty of the case, to trumpet the finely balanced nature of the decision that falls to be made (regardless of whether or not it is actually finely balanced) and emphasise that at final hearing the court is going to need the assistance of its section 7 reporter and is therefore going to need that section 7 reporter to have carried out all the right enquires, come to conclusions and recommendations secure in fact and law, and to have achieved all of that in a demonstrably fair way.
51. And, finally, if you want to entice your court yet further, in circumstances where the flawed nature of the report has, you would say, made the case unseizable, you may wish to dangle the prospect of the case compromising on the back of a properly prepared, legally and factually sound, fresh section 7 report.

Tip four – be realistic, judge-focused and well-prepared

52. Moving now into the most common scenario in which you will find yourself trying to persuade your tribunal not to follow an adverse section 7 recommendation, namely

where the case has gone to trial and you are going to be cross-examining the reporter concerned, my fourth tip is to be realistic, judge-focused and well-prepared.

53. Litigation at first instance is not a complex game. It is, unless you are before magistrates, an exercise in persuading one person, the judge, who, especially in the case of local Cafcass officers, may already have a pre-conceived view of the attributes of the section 7 reporter whose recommendations you seek to challenge.

54. I can still recall the sense of utter deflation I felt when, shortly after I had filed my skeleton, containing my damning critique of the Cafcass guardian's section 7 report in a case I did a couple of years ago, into my inbox popped an account of the children's meeting with the judge. An account in which the judge was reported to have told the children that they had read the excellent, detailed report of the guardian, who, the judge was able to confirm to the children, was a very good guardian.

55. So ambitions had to be moderated accordingly. Our case had been for a change in living arrangements, with 50-50 care our secondary position. By the time the final hearing started, our emphasis had shifted towards equal care and by the time I cross-examined the Guardian that was where our focus lay. My judgement was that there was no hope of persuading the judge in those circumstances to countenance (what used to be known as) a change in residence but that we had a decent shot at equal care arrangements, notwithstanding the Guardian's essentially status quo recommendation. And equal care is what we ultimately achieved, with our tribunal in their judgment comforting themselves, with a degree of legerdemain, that this represented only a limited departure from the guardian's recommendation.

56. But realism about prospects has to go hand in hand with realism about the quality of the report that stands in your way. What do you do when you face, as I did in **AY v AS and another (relocation)** [2019] EWHC 3043 (Fam), [2020] 1 FLR 536, a case on which I have lectured at this conference before, a really good section 7 report by a highly experienced guardian. A report that passed all of the tests that I set out earlier.

57. Well, you seek to sideline it. You play to your judge's sense of their own self-importance, and of course in that case my tribunal was Mr Justice Mostyn. You take your lead from what Lord Justice Peter Jackson said in *L (Relocation: Second Appeal)*, to which I alluded earlier. You remind them that they are the judge; that, just because the section 7 reporter has, in a finely balanced case, tipped one way on welfare, it does not mean that they, the judge, should not go the other way; that, as Lord Justice Peter Jackson observes, such a course is not uncommon.

58. And it is not just that the judge is perfectly entitled to come to an overall welfare conclusion on essentially the same facts and factors that is different from the section 7 reporter. It is that any section 7 recommendation will be built on the welfare factors that the reporter identifies and sees as important, and it is entirely open to the judge to identify and weigh the welfare factors in the case in a way that is different from the reporter. And, of course, added to that, the section 7 reporter is not supposed to be a fact-finder and there may be factual issues in dispute the resolution of which by the court might influence the welfare outcome.

59. And, if one looks at the lead judgment in *L (Relocation: Second Appeal)*, in which the Court of Appeal upheld the original decision of the circuit judge, which had been overturned on appeal by Ms Justice Russell, one can see instructively how and why in that case the first instance judge chose to depart from the recommendation of the Cafcass officer in favour of relocation. Per Lord Justice Peter Jackson:

“[32] ... Concerning the advice of the Cafcass officer about the effect of a move on D, the Judge said this:

“The evidence I heard from Ms Brown [the Cafcass officer] was to the effect that there was no reason for D not to move to Italy and that any loss arising from not seeing his father as frequently would be ameliorated by using indirect forms of contact and D being able to have a greater relationship with his wider family. I'm afraid that I do not agree with her welfare analysis in this respect. I was much struck by her inability to list any other positives beyond that it would address the unhappiness of the mother. I find that D's welfare requires that he maintains a relationship with both of his parents and that the quality of his relationship with his father will inevitably suffer significantly if D were to move to Italy. This loss would not be sufficiently ameliorated by indirect contact because D is so young and indirect forms of contact have already been problematic for him during these proceedings.... A closer relationship with D's

wider maternal and paternal family would no doubt be a benefit to him, but it is not such a benefit that it outweighs the loss which I find he would suffer if he were not to have as much contact with his father as he does now. In terms of D developing his sense of identity and cultural heritage, I do agree with the submissions made by [counsel for the father] that this can be achieved through his parents, who are both Italian. It can also be achieved by trips to Italy during the school holidays, I find. There is no evidence before me to the effect that the mother or the father would not be able to take D to Italy to stay with their respective families for such trips.”

[33] In the remaining five pages, the Judge stated her conclusions. Like the Cafcass officer, she regarded this as a finely balanced decision. Either outcome would have an impact upon the disappointed parent and consequently upon the child. She noted that the mother was proposing to move to an area she knows well and that D has visited, but that she had not provided a level of detail about her plans which would assist the court in making such a significant decision in relation to D. There were issues about accommodation, education and employment. Nonetheless, she was certain that the mother’s motivation for the move sprang from a genuine belief that she could offer D the better life in Italy and did not stem from a desire to remove the father from D’s life. She was equally certain that the father’s motives in opposing the application genuinely related to D’s welfare and his concern to maintain a close relationship with him. The Judge then concluded:

“In light of my findings, the lack of detail in her plans, coupled with the impact upon D of losing regular and frequent direct contact with his father, when balanced against the impact on D of his mother remaining in England, leads me to conclude that the balance tips against her application.”

60. So, if at trial you are trying to overcome an adverse section 7 report, never be afraid to emphasise to your tribunal the welfare factors that you say are important, which you can suggest the reporter should have identified, considered and weighed appropriately. And be on the look-out for some factual issue which you can invite your judge to determine which might put some clear blue water between their welfare analysis and that of the section 7 reporter. Because some or all of that might well get traction because ultimately your judge is trying to arrive at the right welfare decision for the child or children concerned.

61. And overarching everything, prepare well. Indeed, taking on the adverse section 7 report at trial brings very much to mind the old adage that, if you fail to prepare, you prepare to fail.

62. If you are me, preparing well involves a skeleton argument for trial that sets out fully the case that ultimately you want your court to accept and which you are going to put in cross-examination to the section 7 reporter. And it will squarely address why the court can and should depart from their recommendation. Whether that be, in the case of a good report, an exercise in sidelining it (as I have proposed) or, in the case of a report which is open to some attack, identifying the criticisms of it that you can legitimately make – whether that be because it does not survive the multi-faceted scrutiny that I have suggested or because it does not identify, consider and weigh appropriately the welfare factors that you say should sound in the case.
63. And again, if you are me, your skeleton provides the basis for your cross-examination and for your closing submissions.
64. Preparing well involves too knowing the papers at least as well as the witness you are cross-examining. And in that regard never underestimate the momentum that can be built through an effective cross-examination and the influence that can have upon your tribunal.
65. And preparing well also involves thinking through the tactics of when during the trial you would want to cross-examine the section 7 reporter, though their availability may give you little choice in the matter. When I started practice, judges would want their section 7 reporters to hear the evidence and give their own last. Nowadays, unless the section 7 reporter is a guardian, that very rarely happens.
66. So, if you have the choice, a critical, entirely case-specific question for you is whether you think it is going to work better for your case to have your section 7 reporter on before the lay evidence or after it. In the former scenario, if they hold firm in their recommendation, you can then close your case on the basis that they had not heard the parents which might have caused them to recommend otherwise. In the latter scenario, you may want to be able to put any nuggets from the lay evidence to them in cross-examination.

Tip five – persevere

67. All of which leads onto my final tip – persevere, you never know what might happen.
68. And for that I pass over to my friend and colleague, Ms Catherine Wood KC, who tells me of a recent experience of hers involving an adverse section 7 report. A case in which, halfway through her cross-examination of the reporter, the Cafcass officer turned to the judge and asked them to stop counsel asking questions as they were not used to being challenged in that way ... and did not much like it.
69. “Carry on Miss Wood”, came the judge’s response, and that led to that optimum of outcomes, the officer actually changing their recommendation mid-evidence, with the judge endorsing that changed recommendation. The ultimate exposition of that time-honoured principle - “don’t ask, don’t get”.

Conclusion

70. So there, you have it. That is my take on how to challenge an unfavourable section 7 report and persuade the court not to follow its recommendations.
71. It simply remains for me to thank the White Paper Conference for inviting me once again to be part of their magnificent programme.
72. And, to you all, may the next section 7 report you receive be followed by Malbec and Ted Lasso.

1 December 2023
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