

# Non-Accidental Injury Cases

## What advice to give?

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**WELL IT DEPENDS, OBVIOUSLY**

**Focus on Public Law Proceedings**

**Non-Accidental Injuries**

**A Single Red Flag / A history of harm**

# What role are you to play?

**Are you proving a fact?**

**What facts are you seeking to prove?**

**Why are you seeking to prove the facts?**

**Are you denying a fact?**

**Are you denying a risk?**

**Are you absorbing a risk?**

# What is the end game?

Proving threshold is crossed?

Placement options away from perpetrators?

Accepting harm and risk as a basis for return?

Protecting the possibility of a relationship?

# The evidential picture

- The wide canvass
  - The historical picture
  - Issues of credibility
  - Not a memory test

# The evidential picture

- The expert evidence
  - A sensible challenge
  - A focused challenge

# The evidential picture

- Children's evidence
  - How to reconcile
  - How to handle

# To fact find or not to fact find - that is the question!

Very much depends upon the players, the theatre and the director

How robust is the local authority?

How vocal is the Children's voice?

What harm would findings do?

## Case Guidance

Royal Borough of Kingston and Chelsea v NM, PR [2024] EWFC 48 at [54]

Oxfordshire CC v DP, RS and BS [2005] EWHC 1593

Re H-D-H [2021] EWCA Civ 1192

Re H-W (Care Proceedings: Further Fact-Finding Hearing) [2023] EWCA Civ 149

P and E (Care Proceedings; Whether to hold fact finding hearing) [2024] EWCA Civ 403

# Actual Outcomes

Re W (Appeal: Fact-Finding) [2024] EWCA Civ 1590

Findings made against the parents

Unsuccessful appeal

Risk assessments

Ultimate return home

# Actual Outcomes

Re Y & Anor (1996 Hague Convention: Article 11) [2023] EWCA Civ 817

Concessions accepted by Court

Successful appeal

Finding of Fact

Findings against parents

Ultimate return home