# 1KBW

# **PUBLIC LAW MONTH**

Session Three Speakers: Anna McKenna KC and Martha Holmes

THURSDAY 16 MAY 2024

Leading in family law

## Topic: The ever changing world of digital & technical forensic



Anna McKenna KC

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Anna is a KC specialising in private and public law children cases. Anna deals with domestic and international relocation and contact issues and adoption, disputes as to living arrangements and all aspects of parenting including disputes relating to medical, religious, education, and name or identity issues. In her public law work Anna is renowned for successfully managing complex cases involving child deaths, NAI, FII, Child Trafficking and sexual abuse and is highly experienced acting for parents, children and local authorities.

Anna has a wide experience acting for high profile private individuals, public bodies, victims and perpetrators of sexual and physical abuse and CAFCASS.

### Click here to view Anna's full profile

"Anna has an incredible court presence. She knows what will and won't work with judges and knows how to push home a point in support of a client's position." - CHAMBERS AND PARTNERS, 2024

### **Topic: Discharging Placement and Adoption Orders**



Martha Holmes mholmes@1kbw.co.uk

Martha is an experienced child law specialist, covering both public and private law. She represents parents, Local Authorities and Guardians at all levels of court and undertakes Direct Access work. For the first five years of practice, she also undertook criminal work and feels that the cross examination and witness handling techniques she learnt then gave her a good grounding for her family work; she has further trained as a mediator and collaborative lawyer and so brings strong client handling and negotiation skills to her cases.

#### Click here to view Martha's full profile

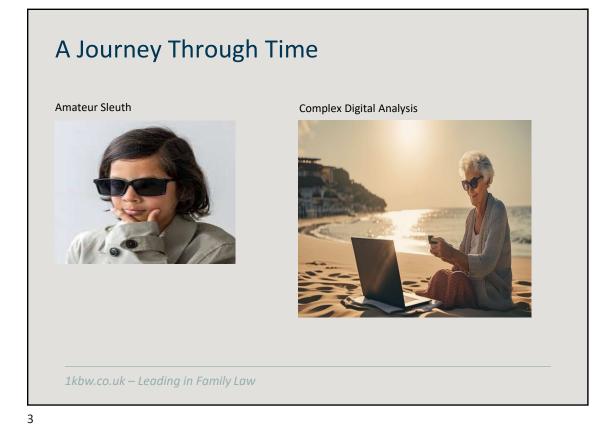
"Martha is an excellent barrister. She is a strong and confident advocate who robustly advocates for her clients."

- Legal 500, 2024

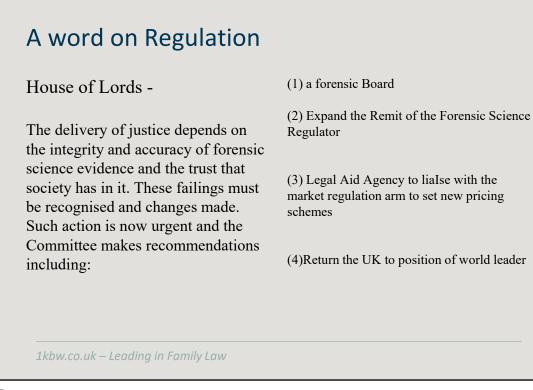


The Ever Changing World of Digital and Technical Forensic Evidence

And how to get the best out of your expert witness



### **Digital Forensics** It is a new science What is your responsibility? Mobile or electronic devices (1) make sure you are using a competent expert Use of acceptable methods which are forensically (2) assess the impact of multiple experts sound conducting the same or similar tests Subject to Codes of Practice and Conduct, set by (3) be clear about what it is you are seeking to the UK Forensic Science Regulator evidence The Code is admissible in court – relevant to (4) ask if what you seek can be evidenced securely whether an expert acted in accordance with it The Code provides mechanism for the court to understand the risks associaited with noncompliance with the Code 1kbw.co.uk – Leading in Family Law





| (1) identify what devices exist | Computers              |
|---------------------------------|------------------------|
|                                 | Mobile device evidence |
| (2) ascertain level of usage    | Tapes                  |
| - What are you dealing with?    | Cameras                |
| - NAI?<br>- Time of death?      | CCTV examination       |
| - Illicit communication?        | Media cards            |
| - Movements?                    | USB memory sticks      |
| - Financial activity?           | Gaming consoles        |
| (3) Beware of fishing           | Sat Nav devices        |
|                                 | Email accounts         |
|                                 | Social media           |

| Case Example  | What is needed:-  |
|---|---|
| Moral of the case example - don't<br>accept what you are provided with<br>by the police at face value | (1) look at the images  |
|   | (2) look at social media conversations                        |
|   | (3) understand what was AND what was not tested by the police |
|   | (4) were search terms used – which ones?                      |
|   | (5)what further tests are required?                           |

# Your expert report (or inherited report)

Need to know:-

- The identity of the tester
- The testers qualifications and experience
- What the terms of reference were that they worked to
- What methodology was used

Need to be clear

What you are testing

Why you are testing it and what you hope the results will tell you

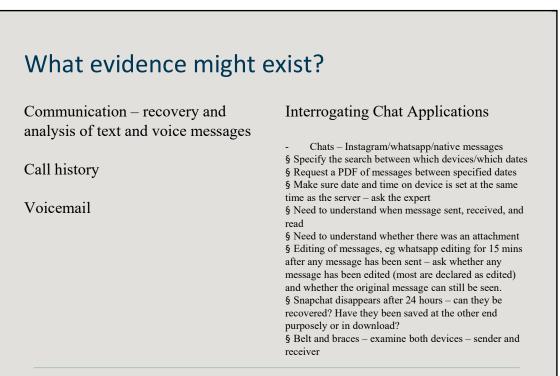
Is it communication information to demonstrate association, contact, deeds

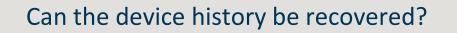
Is it location information eg secret meetings in breach of agreements

Are we looking at words used, photos, or search terms used

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#### Location Data

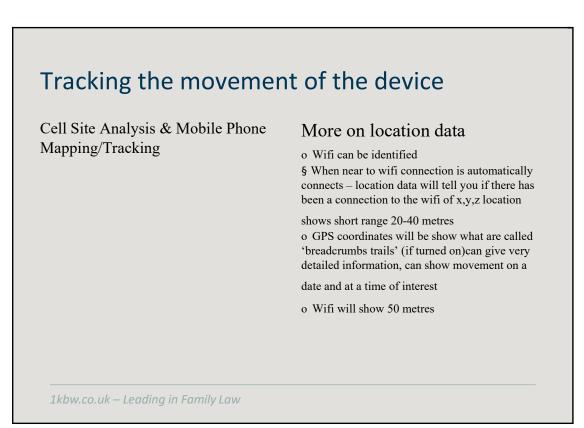
Recovered data can include

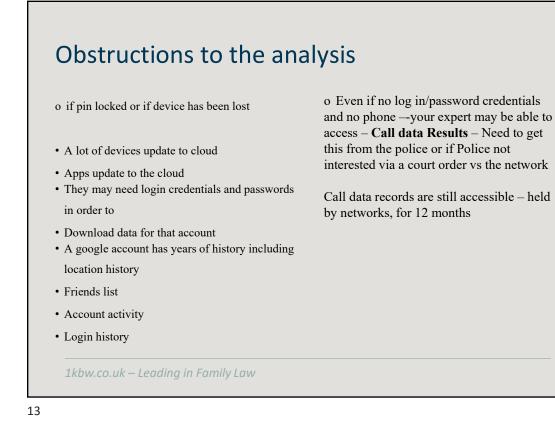
- Calendar
- Contacts
- Installation of applications
- Maps
- Passwords
- Call logs
- deleted data can be recovered but the device memory does not work in a linear fashion, last search not necessarily come back first

- Chats Instagram/whatsapp/native messages • Specify the search between which
  - devices/which dates
  - Request a PDF of messages between specified dates
  - Make sure date and time on device is set at the same time as the server – ask the expert
  - Need to understand when message sent, received, and read
  - Need to understand whether there was an attachment
  - Editing of messages, eg whatsapp editing for 15 mins after any message has been sent – ask whether any message has been edited (most are declared as edited) and whether the original message can still be seen.
  - Snapchat disappears after 24 hours can they be recovered? Have they been saved at the other end purposely or in download?

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Volume of images & a final word

#### Storage

'Cache' - thumbnail images

Android

Google caching

Evidence of sharing? - relevant to the case example as there was no sharing outside of the parents to this child

#### Wider canvass

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Risks – if we search for individuals involved in our cases - what are the consequences?

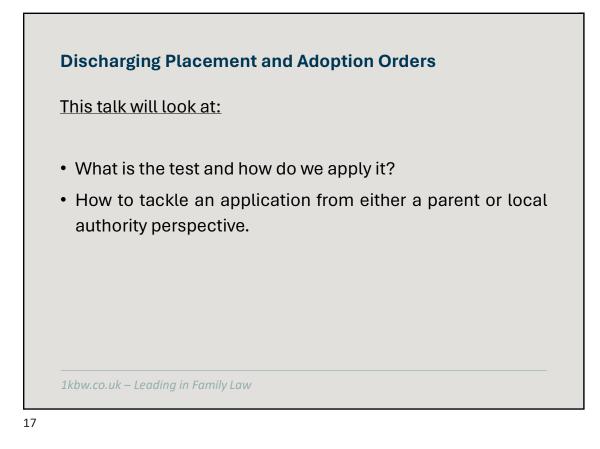
- Algorithms are in operation
- Algorithims suggest associations
- We become associated with the persons we are seeking information about
- We may be suggested as 'friends' for them – we cannot control ourselves being suggested as a friend

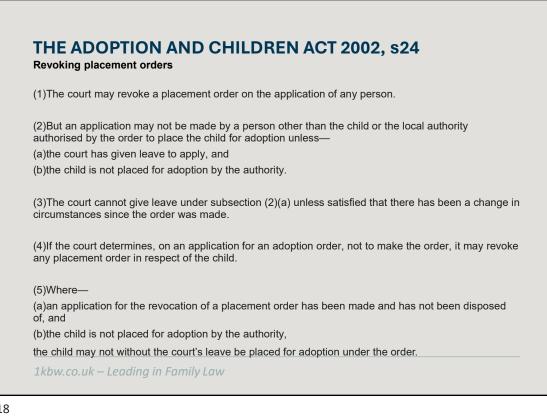


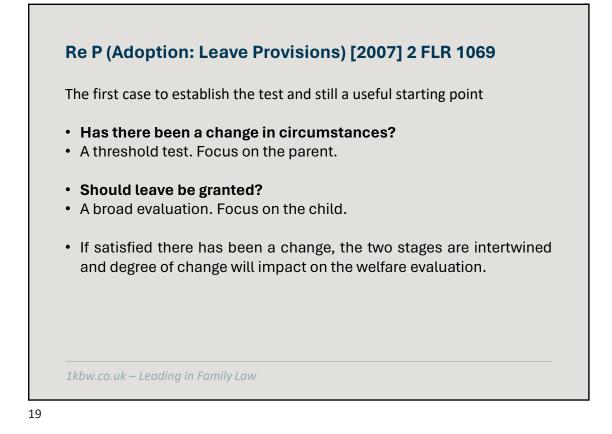
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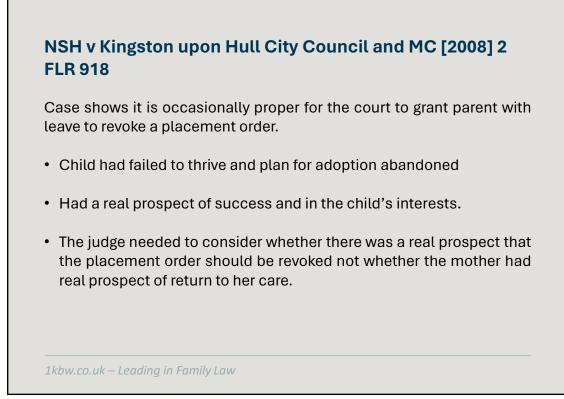
Discharging Placement and Adoption Orders

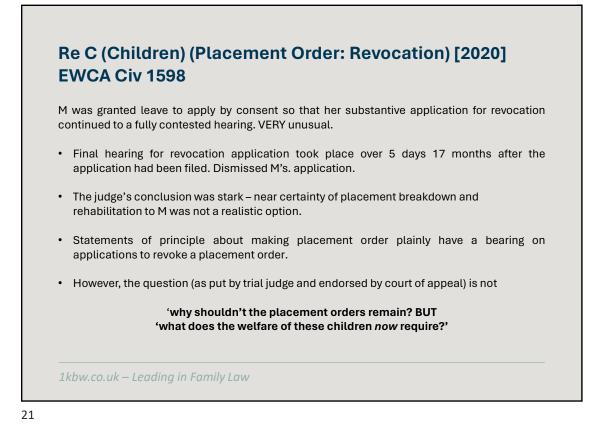
- Martha Holmes

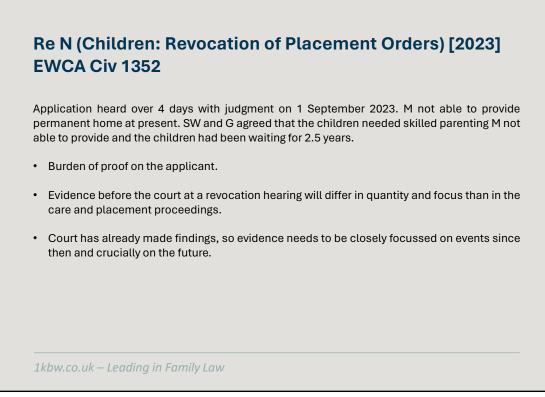


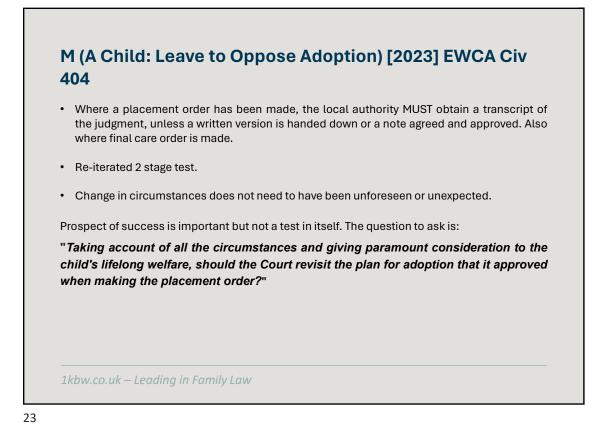


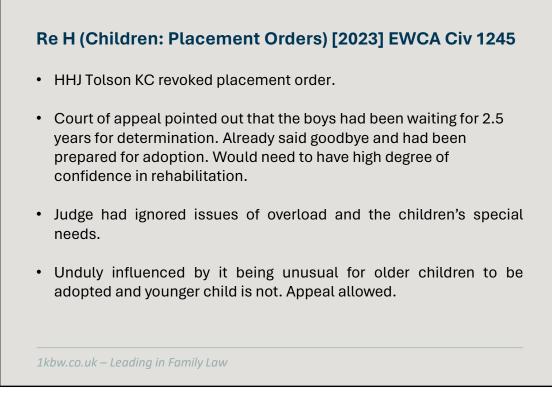


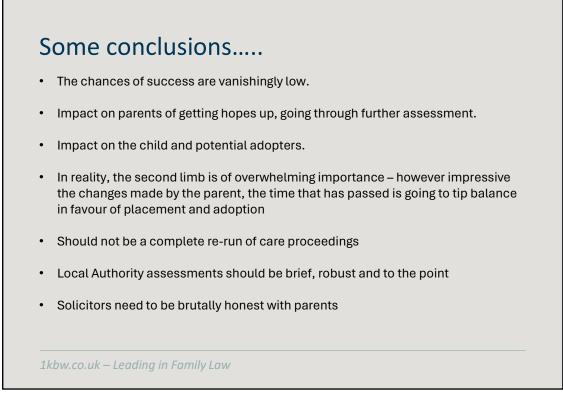












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