

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved

Neutral Citation No [2019] EWFC 85
IN THE CENTRAL FAMILY COURT

Case No BV17D31625

First Avenue House
42-49 High Holborn
London, WC1V 6NP

Friday, 6 September 2019

Before:

DISTRICT JUDGE HUDD

(In Private)

B E T W E E N :

RICHARD HARRINGTON

Applicant

- and -

JESSIE HARRINGTON

Respondent

MR C. HALE QC and MR D. MAXWELL-STEWART (instructed by TV Edwards LLP) appeared on behalf of the Applicant.

MR R. HARRISON QC and MS H. POMEROY (instructed by Alexiou Fisher Phillips) appeared on behalf of the Respondent.

J U D G M E N T

THE DISTRICT JUDGE:

1 I have before me today financial remedy proceedings that have been brought by Mr Richard Harrington, the applicant, in respect of financial issues arising out of the breakdown of his marriage to the respondent Mrs Jessie Harrington. The matter was before me for final hearing from 24th July until 2nd August 2019 and the matter was listed today for the handing down of this judgment.

Background

2 The parties were married on 30 December 1982 and they separated on 26 December 2013, although they had discussed separation slightly earlier that year, and this therefore was a marriage of 31 years to the date of separation. The parties decided not to progress any divorce petition or the separation of their assets at that point in time. A petition was then issued by the wife on 20 October 2017 and decree nisi was pronounced on 3 May 2018.

3 I will refer to the parties as ‘the husband’ and ‘the wife’ in the course of this judgment for the sake of clarity so there is no confusion in any terminology that I am using. I do not mean any discourtesy to either of the parties in using that generic language.

4 The applicant husband is 61 years of age. He has been the Member of Parliament for Watford since 2010 and, prior to that, he was a property developer. The respondent wife is now 60 years of age. She was a homemaker during the marriage and it is not suggested that she has any current earning capacity.

5 The parties have generated substantial wealth that is mainly comprised in property situated either in the UK or abroad and the total assets are said to be in the region of £20 million. A substantial portfolio has been built up largely through the husband’s work and his connections in property. He worked in property sales in Spain in the 1980s. He then became involved in a company that was set up by his friend, Mr A. I am told that it was hugely successful and was sold and that the husband finally stopped work for that company in 2001. His main business dealings have been with a small circle of friends, including Mr A, Mr Stephen Brook, Mr B, Mr C, and also a Mr D, a gentleman who I am told he met working in Spanish property in the eighties and they then went into a venture on a Spanish island (‘the Spanish Development’) along with Mr A.

6 There are a number of issues regarding the valuation of the parties’ assets including the value of the matrimonial home (‘the FMH’) in North London and I have had to determine whether the assets that are listed on the parties’ competing schedules are an accurate reflection of the totality of the assets that are owned by the husband and any sums that are owed to him.

7 The wife has been heavily critical of the husband’s disclosure during the course of these proceedings and the lack of documentation that she says has been produced in support of his contentions about ownership. The husband’s case is that the paperwork about some of his assets is limited. He says that this is due to his way of working with a small group of close associates, with whom he tends to operate on trust and by way of a handshake.

8 It is the husband’s case that after the issues of computation have been resolved that this is a case where the assets should be divided equally between the parties, both on a sharing and

on a needs basis. He says that the properties and pensions should be divided to ensure that the wife does not retain any ties to his business associates and/or friends. He says that whilst some of these people with whom they are connected have been lifelong friends and they were all very close during the marriage, the wife's relationship has broken down with them since separation and he says that that has been as a consequence of her behaviour both inside and outside these proceedings.

- 9 A significant feature of this case has been the wife's diagnosis with a hoarding disorder. This is a problem that was apparent and that escalated during the course of the marriage although was only recently diagnosed as such by the single joint expert who was appointed within these proceedings. The wife's case is that 50 percent of the assets would not be enough to meet her needs including those arising from her disability and she says there should be a departure from equality in her favour, which would be a distribution of the assets of approximately 53 percent to her and 47 percent to the husband, or thereabouts. She says it is imperative that she should retain the matrimonial home.

Evidence

- 10 I have had the benefit of extensive documentation that has been collated into eight bundles for this hearing. I have statements from both the husband and the wife, also from Mr Brook, from Ms E, from Mr A, and also from the wife's solicitor. I have a number of expert reports. Two experts have reported regarding the value of the former matrimonial home and I have single joint expert reports in respect of issues pertaining to tax, pensions, and other property valuations. I heard oral evidence from the husband and the wife, from Mr A, from Mr Brook, and from the two valuers of the former matrimonial home Mr Ian Asbury and Mr Riccardo Carrelli.

(i) The husband

- 11 The husband was the first of the parties to give evidence. In many respects, he was measured and considered in the evidence that he gave. He was often careful to acknowledge where he did not consider he was qualified to comment on matters pertaining, for example, to the wife's health or financial issues. He told me that he is keen to be fair to the wife. He did not ultimately challenge the medical evidence about her condition but whilst conceding that there were issues with her health even during the course of the marriage, and he says that that led to the marriage breakdown, he frequently sought to compare her situation with his. So whilst he acknowledged her condition, it seemed to me that he did not always acknowledge any real impact of it and I felt at times he was lacking insight or empathy in that regard. Despite his history and experience in business, he told me that he would need the same support in managing investments in the future as she would despite the fact that the symptoms that she experiences in connection with her diagnosis are said to include delay and procrastination in making decisions and also that she has a fear of financial hardship.
- 12 The husband, in a number of areas, was able to be direct in answering questions that were put to him and he did so even in areas where the answers did not necessarily do him credit. He has made concessions about shortcomings in some areas of his evidence. He has acknowledged that his finances are not straightforward and he says that he did not realise when embarking on the litigation the extent of the detail that would be required. In respect of his written evidence, he conceded that, "on occasion there have been errors and omissions" in his disclosure. He said that in respect of his oral evidence, he had done his genuine best but he accepts that there were what he characterised as innocent errors.

13 There were, however, some areas where I considered him to be evasive in the answers that he gave. When he was asked about the impact of the Metropolitan Line extension, instead of answering about the impact it had on land that he has an interest in, it took him three times for that question to be posed until he conceded that the value of the investment would be likely to benefit. He did also concede that he was likely to need to have a conversation with the registrar about the Register of Members' Interests and I bear in mind that might account, in whole or in part, for his hesitation in answering those questions.

14 He invites me to place a great deal of weight on and to accept his accounts of events. The difficulty is that he himself points out the fallibility of human memory. He accepts that he has a poor memory. He does not dispute the wife's account about certain matters about which he says he does not have an explicit recollection. He professed to have an absolute conviction about other aspects of his evidence even though he did not initially recall the events. He says his memory has been prompted by third parties and, if I were to accept that evidence, I must remind myself that there are areas in which he is reliant upon the accuracy of information that is being provided to him and I have to bear in mind those matters when I am considering the weight I am able to attach to his evidence.

(ii) Mr A

15 Mr A gave evidence on the husband's behalf. I found him to be frank and focused in the answers that he gave and I have no reason to think that he was trying to do anything other than to assist the court regarding issues pertaining to the Spanish Development.

(iii) Stephen Brook

16 Mr Brook gave quite lengthy evidence in support of the husband. He is a highly experienced solicitor and a long-term close friend of the husband. I found him to be incredibly vague and obtuse in many areas of his evidence. He often sought clarification before answering questions at all, such as when he was being asked about his practice in keeping ledgers for client transactions. He suggested that the questions were "too vague" and said that he was not keen to discuss "hypotheticals" although when direct questions were put to him, a frequent answer from him was "not particularly" rather than anything more concrete. It was particularly hard to glean with any certainty whether there was any further paperwork in his possession that might have assisted the court with its task. He confirmed that he had kept his own personal records separate from his company's records. He would only go so far as to say that there were "some notes" in his possession although said he could not say what they covered and where and in what form they had been kept.

17 His answers to questions about there being no files for the Z partnership were said to be accurate as he says that none exist. He said that he had acted for the husband but not acted for the partnership. He sought to draw a narrow distinction between acting for the husband on a transaction and then entering into a deed of trust afterwards with him regarding the same property. He described that as being a separate private matter despite acknowledging that he would have been aware of the intention to enter into the further transaction during the conveyancing process. He disputes that he has had any intention to exclude references to files in the husband's name.

18 His tendency to give quite literal answers to questions unfortunately painted a picture of someone who was not always seeking to give the court the full picture. He was clear in his oral and written evidence that his firm does not retain files for more than six to eight years. In his written statement, he said they may retain computer files of documentation for longer.

In oral evidence, he confirmed that they may retain something that he called a skeleton file, a handful of key documents rather than a complete acquisition file. However, if there was to be a file with a few key documents on it, this is not something he had referred to in his written evidence despite his obvious awareness of the queries that had been raised about how certain older documents had been located if the files had been destroyed, as was suggested.

- 19 He was frequently dismissive of questions put to him in oral evidence. He was often keen to divert attention to the outcome rather than to answer questions about the methods that had been employed by him. He said that he could not “answer hypotheticals” and that he was “at a loss to understand what the problem is” when he was unable to account for how he had calculated that the transfer of his interest in W Road would be an appropriate consideration for a share in the Spanish Development.
- 20 He himself sought to resile in his oral evidence from aspects of his own written evidence. He disputed in oral evidence that his written account of how the purchase price for the Caribbean property was calculated was accurate. Despite being keen to distance himself from the detailed calculations that had been set out in his statement, he would not accept that the information in the statement had been false, only that it was “not very clear”. He accepted that the exchange rate that was used in the calculations was wrong and this resulted, it seemed to me, in a complete about turn in his evidence on a key issue about figures involved in the Caribbean development and associated transactions.
- 21 It is highly regrettable that I must record that I found his casual attitude to business dealings and preparation and production of documents to have extended to the manner in which he gave evidence to this court and that is not something I say lightly in view of his professional status. The most striking area of his evidence was when he was particularly dismissive of the significance of the existence and the wording of a declaration of trust. He told me that the wording of a given declaration of trust was not exhaustive as he said “you cannot anticipate what will happen” which I found to be an extraordinary contention given his expertise. Most astonishingly, he accused the wife’s counsel of “splitting hairs” when the significance of the intended beneficiary of the deed of trust regarding the Caribbean development was put to him.
- 22 The vague and evasive answers that he gave in many areas contrasted starkly with areas where his evidence was very specific. He told me he went to the trouble of having a conversation with Mr F about whether monies paid back on a loan related to capital or interest when he was acting as an intermediary.
- 23 I cannot ignore the fact that Mr Brook is a lifelong friend of the husband. He clearly holds the husband in very high regard and vice versa and many of their interests are intertwined but it is with regret I must record that I find myself compelled to approach Mr Brook’s evidence with very considerable caution.

(iv) Ms E

- 24 I had the benefit of a statement from Ms E. She was unfortunately unable to give oral evidence due to a family illness. Her evidence has therefore not been the subject of cross-examination which limits the weight I am able to attach to it.

(v) The wife

- 25 The wife also gave evidence. I found her to be very careful and particular in the answers that she gave. She was very thorough in her answers and was able to explain her thinking clearly to the court. She recognised the impact that her condition has had on her life in a number of ways. I am in no doubt that her health impacts on her day to day life and impacts on how she expresses herself and she acknowledged the impact that it had had on the family to date and the reasons why she had fears for the future.
- 26 She was able to explain to me that she was not accusing Mr Brook of lying but why she found his answers to be unsatisfactory. She explained why she felt she had not always been able to get answers to her questions from the husband either during the marriage or since they had separated. She also told me why she felt the husband had been economical in the information that he had given to her during the marriage and after the breakdown of the marriage about the finances. She told me she felt she had learned a lot even during the oral evidence. She said that this had been an issue even during the marriage as she said she would ask and ask again and he would get irritated with her. Despite that account, she was clear with me that she had loved and trusted him.
- 27 I am quite satisfied, on balance, that the wife was doing her best to be a truthful witness and to be fair to the husband in the evidence that she gave.
- 28 To the extent that I find any evidence given by any witness to be unreliable, I have to consider what the reasons might be for that. I have to bear in mind the fallibility of human memory and the dangers when one is reliving experiences from many years prior that that one can come to colour one's recollection of events. I have to bear in mind that even if I consider a witness to have lied about something, people lie for a number of reasons and in different circumstances and that does not necessarily mean that they are lying or mistaken about any other matters.
- 29 I turn then to consider the factual issues that arise regarding the parties' financial affairs.

Findings

(i) The way in which the husband organised his financial affairs

- 30 The parties accumulated significant wealth during the course of this marriage, each having brought very modest assets into the marriage. It is not disputed that their contributions have been equal with the wife as homemaker and the husband in using his entrepreneurial skills to develop their asset base. The wife recognises the husband's great skill in bringing people together and making a great success of ventures. When he went into business with Mr A in the 1980s, they built up the company together and that was sold at considerable profit. They now have a portfolio of properties and investments in the UK and abroad, many of which were held alongside third party interests. The husband's case is that some of those investments have been better than others and he says the wife must take the rough with the smooth.
- 31 It is agreed by the parties that the husband largely operated with a narrow circle of trusted associates. The husband's case is that he has conducted business on trust and on a handshake with those trusted allies. He says that, in particular, he and Mr Brook have entered into a lot of deals with one another, each having put investment opportunities the other's way when the opportunity arose. Mr Brook confirmed that they would always think

of one another whenever a deal came up to see if they were interested. The wife confirmed that she agreed to a degree the husband and Mr Brook's description of how they did business and she understood that they trusted each other.

- 32 Mr Brook and his wife were, I am told, among the parties' closest friends throughout the marriage. I am told that they were like family. They remain close to the husband but not so with the wife as of the last couple of years. The husband says that they have been upset at the things that the wife has said during proceedings and that she has cast aspersions on their honesty. He asserts that the wife's attitude has fundamentally shifted after she learned of him having embarked on a new relationship several years after they separated.
- 33 The wife accepts that it was distressing to learn about the new relationship. She disputes that her attitude to that development has been the source of any problems that have developed. She has expressed concern at the lack of documentation that has been produced and believes that a full account has not been given by the husband and his friends within these proceedings and that they are not being honest with the court.
- 34 The husband says that he had an informal way of doing business, that calculations for investments such as his current home, ('the St John's Wood property'), a property that he co-owns with Mr Brook, would be done "on an envelope" as and when the time arrives. He says that is the way he has sorted things out with Mr Brook for years and that they have never had a dispute. He says they have done each other favours over the years. In respect of the Caribbean property, he does not accept that any lack of documentation is unsatisfactory. He says when they come to sell that they will sit down and it will take half an hour to work out the figures and he says it will take a bit of work to do it but he trusts Mr Brook and says, "He's never cheated me out of a penny and he never would."
- 35 Mr Brook talked about the St John's Wood property deal having been good for him in the sense that the house has been improved at no expense to him although he has deferred the receipt of any rent for the time that the husband is living in the property. That has been described as a mutually beneficial arrangement.
- 36 The husband described a series of investments, many of which he engaged in at arms' length, with different people taking responsibility for different ventures. He says that Mr D has been the person on the ground on the Spanish island, Mr Brook took charge regarding the Caribbean development, and Mr B has taken the lead regarding Property Company X. He accepted that some might call his attitude one of "blind trust" and he accepted he would not do business with a new person in that way saying:
- "If I did not know the way I dealt, I would be asking the same questions. Your questions are not unreasonable. It may not suit other people but, for me, this has worked."
- 37 He told me he would not have been interested in developments such as the Spanish Development or the Caribbean development if they would have required him to be onsite. He said he had rarely visited them, that he had never visited the properties in his SIPP, or the W Road investment. He said there is not even a shareholders' agreement for Property Company X. He said he considered the deeds of trust to be enough to protect his interest in a number of properties if he died and that he trusted Mr Brook to sort out a loan he had made to Mr F if he died. He told me he trusts Mr Brook "ultimately and absolutely" although accepts that the documents that have been produced did not record figures and what sums had been paid across.

- 38 He draws a distinction as regards the detailed records of expenditure which he says would be necessary for tax purposes. He accepts that that would be required where rental income is concerned and therefore his management company produces accounts for the Portuguese rental income and his office used to produce the figures for the Z partnership rental accounts when they were trading as such. He says he does not accept that it is necessary for capital contributions to be recorded in such meticulous detail because there is nothing to do unless there is a tax event.
- 39 The husband's informal way of dealing has included loaning monies to people, including a loan to Mr F in 2002 of £0.5 million on his case or more on the wife's case, and a £135,000 loan to a Mr G in 2009 said to have been reimbursed as part of the acquisition of the Caribbean property. He says that his way of doing business has "served him and Jessie very well indeed" and that, "These are the relations that have made my money." He acknowledges that there have been good deals and bad deals but says that one must take the rough with the smooth. He said if something turned out to be a bad deal, it is likely the other partner would put something their way that would work better and he regards himself and Mr Brook, in particular, as men of honour.
- 40 I accept the husband's evidence that he approached his business dealings in an informal way tied, as they invariably were, to people that he knew very well. His dealings have all largely centred around opportunities that have been introduced by a handful of associates and the wife does not dispute that. The difficulty within these proceedings has been the lack of supporting evidence for the details of those investments. The husband's laid-back approach to doing business appears to have extended to a very casual attitude to his disclosure requirements both inside and outside this litigation. It has become apparent that his interest in Commercial Development Y, some of which is in his constituency, is not in the Register of Members' Interests and he accepts he needs to look again and have a chat with the registrar to bring the register up to date. He indicated that there were assets that he did not previously think would have been over the threshold but he now thinks that they may be. It seems to me it is a significant shortcoming that he now is forced to accept that he did not properly keep under consideration the ongoing need for actions or disclosure on his part.
- 41 I am mindful that the husband has been heavily reliant on third parties to produce documentation within these proceedings, particularly Mr Brook. The husband has not been assisted in this case by the extreme lack of formality in Mr Brook's approach, his lax attitude to the significance of who was the intended beneficiary of the deed of trust regarding the Caribbean property, and his obtuse evidence about what records are actually in his possession, whether in a personal or professional capacity.
- 42 Given the limited documentation produced during these proceedings, it is unclear upon what the husband will draw to deal with the tax events as and when they arise. It is unclear how he proposes to account to HMRC for the interest on the loan to Mr F if the only records are kept by Mr F's company and not by the husband. He asserts that others, particularly Mr Brook, have been keeping records upon which he would rely at the appropriate time but very few of those records, if they exist, have been produced within these proceedings.
- 43 Mr Brook's evidence was that his record keeping was not the issue saying that the husband's office would sort out any post-completion issues. It must be right that Mr Brook's professional role extended only to the acquisition of properties and the drawing up of declarations of trust to reflect the beneficial ownership where that did not coincide with the legal title. Issues about accounting for rental income and tax issues are for individuals to

deal with themselves or by taking accountancy or tax advice. That is not within the remit of the solicitors' work. However, Mr Brook's account regarding the transactional work he undertook on the husband's behalf is vague in the extreme. Deeds of trust do not record financial contributions or details of the trust arrangements and no other records are proffered to provide clarity. Mr Brook himself says that deeds of trust do not necessarily accurately reflect the position insofar as the Caribbean deed does not refer to contributions to the original purchase price.

- 44 That picture has all been problematic for the husband within these proceedings. The wife feels that she has not been able to agree his contentions about the true ownership of these assets without him producing supporting evidence. She feels that she has been excluded from the relevant information both during the marriage and since its breakdown, and she has put the husband to proof within the proceedings about a number of issues.
- 45 After separation, they had discussions about whether to separate their finances. They agreed that the husband would continue to manage the finances but that they would have regular meetings which I am told took place broadly monthly. The wife said in her oral evidence it was important to her that there should be "honesty, truthfulness, and transparency" due to her nature. She says her husband promised that he would oblige. She said that he had been a good and honest husband. She said her view had not necessarily changed but that she had now learned a lot of things she did not know then. She has been upset that after separation, he would not show her bank statements and she feels that it is unfair that he has been able to spend monies on the St John's Wood property when she has had limited access to funds for repairs to the matrimonial home.
- 46 The husband produced a schedule to discuss with her in early 2014. He accepts that there were inadequacies in the information that he provided then as he did not, for example, disclose D Road - he said to me that he did not check his files, and he did not have any expectations from that property as it is subject to a life interest. He also did not disclose a loan to a fellow MP which he says has subsequently been repaid, and he says nor did they discuss small items of spending but that he did his best to explain items over £250. He said that he felt the meetings were the right thing to do and he was doing his best to explain spending, although not exhaustively, but he acknowledged he had agreed to keep her informed. He said he would discuss the business dealings with her, although not necessarily in detail, and that he had been aware during the marriage of her insecurities about financial matters and that is why a number of assets were in her name.
- 47 The wife says that this all was a breach of the agreement he had with her to be transparent. He says that these were simply genuine errors and that he was doing his best to be transparent with her and he strongly refutes any suggestion he has been anything other than honest with her, both then and now. He accepts that his financial affairs are complicated and are hard for others to understand. There is, of course, a duty on him within litigation to provide disclosure in a form that enables his financial affairs to be readily understood both by his wife and by the court. Unfortunately, his evidence has fallen short of that standard in a number of regards. His own evidence has changed in many respects during the course of the proceedings. That history of this litigation, with changing assertions being put forward in respect of certain assets by the husband and his witnesses, and the lack of documentary evidence has led to voluminous documentation being produced.
- 48 The husband, whilst expressing frustration at how unwieldy this litigation has become, does acknowledge that there was a failure on his part to deal with matters from the outset in an

adequate manner and it seems to me that that has fed into this sequence of events. Whilst he is critical of the wife for pursuing a number of lines of enquiry, it seems to me it is difficult to attach a great deal of weight to any criticisms of her where his case has not been presented in an entirely consistent or transparent manner. All of this creates great difficulties in being able to rely on any bare assertions about ownership unless they are corroborated elsewhere.

49 However, I remind myself that, ultimately, where allegations are being made that are contested, the burden of proof is on the person who is seeking to establish the truth of those allegations and the relevant standard of proof is on the balance of probabilities.

(ii) The St John's Wood property

50 I turn then to consider the value of the St John's Wood property and associated liabilities. The St John's Wood property is a property owned in the husband's sole name but beneficially owned jointly with Mr Brook. It was tenanted until July 2013. After the tenants moved out, it was refurbished and the husband has been living there since the end of that year. He says the plan was for this to be a short-term measure but he is still there now. £300,000 was spent on an extensive refurbishment, £220,000 on the property, and £80,000 on furnishings, including high value art works. The husband paid those sums and did not seek a payment from Mr Brook. He says he is owed £110,000 for Mr Brook's half share and that this "would be accounted for at some stage of proceedings" but he says that he would also owe Mr Brook notional rent for the time that he has spent there now that it is no longer tenanted and there would therefore need to be an offset. He says that there is no formal accounting or paper record of this. This "would all be done on an envelope" on disposal. He says he has lived there longer than expected and that is why it still has not been addressed. He said that there is currently a balance of around £82,000 owing back to Mr Brook and that that is going to increase the longer that he stays there and therefore, they are foregoing a rental income.

51 The wife disputes that rent or any other sums are going to be paid to Mr Brook. She says detailed records have not been kept and he would be liable to pay at the higher rate of income tax. Mr Harrison, on behalf of the wife, says that if there were to be any sum owing, it would be a very modest figure once all of the adjustments and tax had been taken into account but, in reality, it is suggested that this will not be declared as actual income.

52 There is some dispute about what is likely to become of this property. This was one area where the husband's evidence diverged from Mr Brook's. The husband did not think that Mr Brook would stand in the way of a buyout. Mr Brook was adamant he would not agree to being bought out although, when pushed, conceded that they would come to an arrangement if the husband wished to stay.

53 I am satisfied that the husband and Mr Brook are giving an accurate account of the position regarding the principle of Mr Brook expecting compensation for having no income from that property and that he will need to discharge his outstanding liability to the husband for half of the refurbishment costs but I consider that the hard stance expressed by Mr Brook is not entirely reflective of the true position. He is a good friend of the husband and he is clear that he wants to support him. The husband is equally clear that Mr Brook has never cheated him in their dealings. They have both taken quite a broad-brush approach to date. There is clearly an advantage to Mr Brook in conducting an informal equitable account. He has not had to come up with hard cash for the refurbishment. By deferring and offsetting those

payments against notional rent, he is avoiding the need to declare an income that will be subject to tax. In the meantime, the husband is improving his position regarding CGT because the longer he remains, the more he is able to reduce the proportion of capital growth that will be taxable. Whilst that may not have been what was intended in 2013, it has become quite a mutually beneficial arrangement.

- 54 On balance, I consider that, given the extent of the husband and Mr Brook's financial dealings with one another, it is unlikely there will ever be a substantial sum of money paid up front in respect of rent. It is mutually beneficial for both to continue to offset expenditure or sums owed by one to the other in order to mitigate tax consequences. I do not propose to adjust for any contingent sums potentially owing to Mr Brook as I consider they are likely to largely be extinguished by further capital or further adjustments. Anything that would be paid would be significantly reduced by the sums that would be payable at the additional tax rate and that seems to me to be a very inefficient way of dealing with matters if it can be achieved by capital adjustments elsewhere.

(iii) Property Company X

- 55 Property Company X was set up in the early 1980s by the husband with two friends, Mr B and Mr C. It was incorporated in the late 1980s and was held through offshore trustees for a time although then was brought back onshore when the tax benefits were lost. Whilst the husband is the legal owner of shares, it is accepted that he and the wife are the joint beneficial owners of those shares.
- 56 An issue arises about how money is to be extracted from the company and the appropriate tax treatment. The husband says that the only method is for a company buyback of shares. That is what will happen with the wife's shares and that is the only way for him to get his money out in due course. He says it is not possible to liquidate any of the investments quickly. One venture might be about to come to fruition with the land being sold that would increase liquidity and hopefully enable the wife to be bought out within a few weeks. It is agreed that she will have to pay tax at a rate of 38 percent
- 57 The wife does not accept that the same applies for the husband. She says that, pursuant to the articles of association, he could sell his shares and reduce his tax rate to 20 percent, or that it is likely he would wind up the business as he and the remaining investors approach retirement age. The husband says that Mr B makes decisions exclusively and disputes that he intends to retire or wind up the business. He thinks that Mr B enjoys his lifestyle as it is and the husband says he regards it as Mr B's company as he has 48 percent of the shareholding. He says Mr B takes a small salary and it is his hard work that creates money for the other investors. They do not have a board and nor do they have management meetings.
- 58 He says that he does not believe that the other investors will be interested in risky tax mitigation schemes to extract cash, nor will any want third parties to buy in. He says that when others have taken their money out, they have had to pay tax at the higher rate. He says if one were to attempt to cash in, it would not be a straightforward portfolio to dispose of, that they are long-term investments that remain, and there would be a risk of underselling those assets. He says he can envisage leaving his money in for another 10 or even 20 years.
- 59 The wife says that, in reality, the husband, Mr B, and Mr C were making decisions jointly. He made those key decisions jointly and Mr B did the day to day running of the business. The husband assured her he could get his money out when he retired and there was talk of

winding up as an option at a monthly meeting around three years ago. She says he talked about it as “our pension fund”, that he regarded it as a retirement nest egg, and it was therefore expected that money would be released without penalty. She says that the other shareholders would agree to liquidate to reduce tax or he could sell and pay tax at the lower rate of 20 percent.

- 60 The husband disputes that and says he does not recall the discussions that are referred to. He may have referred to it as a “pension” but not necessarily to get money out at 65 because that is not a “magic age”. He says winding up has never been discussed as a sensible or likely prospect nor a sale to a third party. It was suggested to the husband that he could become more actively involved in Property Company X once he retires from politics and his answer had a ring of truth when he said that no one else would be actively involved in managing the company and that, “You have not met Mr B.”
- 61 I accept his evidence that this is not a situation where anyone is likely to insist on their strict legal rights as there is unlikely to be an appetite to litigate or fall out with longstanding friends. He and the others have benefitted from Mr B’s management of the funds. There is no shareholders’ agreement. This seems to me to be characteristic of how he operates. He takes charge of some schemes and leaves others to take charge of other schemes. He and his friends and associates each played to their strengths – that has been a key part of the strategy that has increased the family’s wealth.
- 62 Whilst the husband says he does not recall the discussions the wife refers to, he does not dispute that there has been discussion about the funds being akin to a pension. I accept this may not relate to any particular age as he has not had a conventional career in that regard. I accept the wife’s clear evidence that there had been discussions about getting money out as part of a retirement plan. The difficulty is that it is not suggested that those discussions extended to how the money would be extracted. However, I do not accept that this is a company which is never going to be wound up. I accept that it might be that those investments remain tied up for a long period of time and it may well be that Mr B gets the casting vote, for want of a better phrase, to decide when investments come to fruition. However, the husband’s own case is that he is not rushing to remove his money and he is happy to leave it invested. To that extent, I consider it is likely that the husband will wait for his money and the benefit of waiting for the money will be that it is likely that he can reduce the tax bill. So whilst it could be some years hence, I am satisfied, on the balance of probabilities, that he is likely to be able to reduce the tax rate to 20 percent, albeit the benefit of the lower tax rate is likely to be partially offset by the limited liquidity and the long-term nature of the investments. However, I am satisfied that it is appropriate to take tax at the lower rate.

(iv) The Caribbean property

- 63 In 2008, Mr Brook and Ms E purchased an interest in an undeveloped unit in a Caribbean development at a price of US\$2.4 million. It is owned through a company in which Ms E is the sole shareholder. The developer went into administration and in 2010 the owners, led by Mr Brook, entered negotiations to buy the site and to complete the development. Mr Brook says he approached the husband with what he saw as a good business opportunity, potentially worth millions, but only for homeowners.
- 64 The husband and Mr Brook say it was agreed that he would buy in for £750,000. There are no written records of that. The husband says he is clear in his memory that £750,000 was

half what Mr Brook was “in for” including ongoing costs. So, he says, that seemed reasonable. It is said that £95,000 of that sum is still owing and that is therefore a debt from the husband to Ms E. It is not referred to in the husband’s Form E. The husband says that it has been “difficult to keep track” and hence he initially missed this sum but says he had “not forgotten about it” as he knew he had not finished paying. The wife disputes this account. She says she was aware of him going into the investment in 2010 but she cannot recall anything about if any figures were discussed at the time.

- 65 The figure of £750,000 did not appear in the husband’s Form E or in his replies to questionnaire. His replies to questionnaire referred to a fixed contribution of £260,000 that would be paid towards various specified items and that will be paid out of his future share of income. The figure of £750,000 appeared in the husband’s reply to the schedule of deficiencies alongside the £260,000 then described as a capped maximum for the cost of finishing off the unit, although it is also said that later on, a further £13,000 was owing in respect of a new air conditioning unit.
- 66 The husband says these figures are accurate although says he has relied on Mr Brook for those figures and for other information about this development due to his poor memory. The wife complains that the only evidence of payments shows £655,000 going across and there is nothing relating them to the Caribbean development. There was £250,000 paid to Mr Brook’s firm on 22 November 2010, and another £230,000 paid on 17 February 2011. The other part of the payment is not a direct payment at all but said to have been the application of the funds that the husband had advanced via a loan to a Mr G one year previously and that that had been repaid via the firm’s client account, another £175,000. That is one year prior to the Caribbean agreement. No evidence is produced of that amount coming back across and being attributed to the Caribbean development. The husband said it was difficult to keep track of all the payments and that is how he ended up missing the final payment of £95,000 but that it is still owing due to his mistake. He also says he is clear in his memory that he agreed a further £260,000 to cover additional costs and that he also now owes for the extra £13,000.
- 67 In his written evidence, Mr Brook gave a detailed explanation about how the figure of £750,000 was calculated. The wife queried the calculation set out in his statements given the sums that are referred to in the initial purchase contract and also given the exchange rate at the relevant time. Mr Brook rowed back from his written evidence during cross-examination. He would not accept that anything that he had said was “false”, only that it was “not very clear”. His evidence is now that rather than the very technical approach that was suggested to calculate the price, in fact, it was a broadbrush approach to get to the price but he says that that was all right and he would have been “narked” if the husband had asked too many questions about the details.
- 68 The schedule produced by the husband when he started having meetings with the wife in 2014 made no reference to any debt owing in respect of this development. The husband’s explanation is that this was to be offset against future rent so it is not a sum that he would ever have to find. The value of the Caribbean property appeared on the schedule as £1 million.
- 69 I accept, on the balance of the evidence, that the husband has paid a substantial sum of money for this transaction. The wife does not dispute that he has an interest in the Caribbean property and there is no evidence of what else the money paid to Mr Brook’s firm went to or how else the Caribbean development could have been paid for. This was at a

time when he was far less active in his business dealings and therefore it seems to be the likelihood of money going elsewhere is reduced. However, the question as to the sum paid is more problematic and that is a consequence of the pitiful disclosure. There is no evidence of the loan money being paid back over from 2009 at this point in time and, if so, what was relating to loan capital and what was interest. I only have Mr Brook's say so. There was no mention of a debt of £95,000 in the Form E or replies to questionnaire. That only came to light through Mr Brook. Given the extensive inadequacies in Mr Brook's evidence, in his failure to produce documentation that might support the husband's case in this regard, or to proffer a consistent explanation even about how the sale price was reached, I am unable to rely on Mr Brook's evidence to make a finding about what the purchase price was or that any sum is still outstanding.

- 70 The husband has not been able to give consistent evidence regarding this transaction. Whilst it is said that he still owes money for this development, this was simply not referred to in his own disclosure. It was not the husband's initial recollection. It is only referred to later in his evidence apparently reliant on Mr Brook's unsubstantiated assurances. It was not recorded in the deed of trust. The husband considered the deed of trust to be a "formality". I accept he has absolute trust and confidence in Mr Brook but Mr Brook's record keeping leaves a significant amount to be desired.
- 71 I am also not satisfied on the limited evidence I have read and heard that £260,000, or any further sums, remain outstanding. The extra £13,000 referred to would be manifestly inconsistent with having reached agreement about capped or fixed costs. Even if I were to have been wrong about the £260,000, I note that it was the expectation that would be offset against future income and that there was never an intention to pay out of capital on any analysis.
- 72 I must say at this juncture that the problems with the declaration of trust are more extensive than the failure to refer to the contribution to the purchase price. An issue has arisen during proceedings about who holds the beneficial interest in the Caribbean development and Mr Brook's evidence in this regard was particularly unsatisfactory and is one of the key reasons why I have great difficulty in attaching weight to evidence that he has given.
- 73 The husband produced an unsigned declaration of trust between himself and Ms E with his Form E. In his further replies to questionnaire, he produced a newly executed declaration of trust dated 2018 but said to take effect from 2010. The wife was then able to produce a declaration of trust for her and Ms E which had been signed by Ms E in 2010. She says that she had been given two copies back then, had signed both and returned one and kept one, and therefore she was intended to be the beneficial owner. Unsurprisingly, the husband was criticised and asked a number of questions about this sequence of events.
- 74 Mr Brook's evidence was particularly concerning about the sequence of events that led to the production of this document in an unsigned and then a signed form. He disputes that anything was falsified. He says that he could not find the original and he was working on the assumption that the one with the wife's name on his work's computer system was a draft as it was not signed or dated. He says that the husband was "at liberty to give any name he wanted" on the new one. It seems to me that it is impossible to reconcile his discovery on the system of a contemporaneous draft showing the wife as the beneficiary with the production of a document with the husband as the beneficiary with no enquiries having been made by him to see if there was an executed copy of the document in anyone else's possession. He told me that as he did not have executed declaration of trust he regarded the

husband as “free to start again”. When asked about the swap to the husband’s name, he told me that he “did not think it mattered”. He told me there was an honest belief that the document on the system was an unexecuted draft and that there was no concluded agreement. In oral evidence, he then suggested that there were, in fact, multiple versions of the deed on his system which contrasted with his written evidence that “the document on the system was dated 7 December 2010 between [Ms E] and Jessie”.

- 75 I cannot agree with his attempts to characterise this series of events as a “minor and irrelevant error”. It is worryingly characteristic of his arrogant and casual approach to paperwork and to the production of documents for the husband’s benefit within these proceedings about issues as important as a proprietary interest. He suggests that it is the wife’s actions which have caused confusion and I utterly reject that assertion. This lax attitude further undermines his assertion that declarations of trust were some kind of protection for the husband as it now appears that no fully executed document was in existence for the Caribbean property until 2018.
- 76 The husband and Mr Brook had been keen to downplay the significance of the creation of the new document with the amended name. The husband is clear that it was of no significance to him as it makes no difference to an equal split of the resources. He says this was something done by Mr Brook on his behalf. He says Mr Brook’s account of discussing a deed with the wife’s name on it was not his memory of this although accepts there may have been a discussion. He disputes altering or doctoring any document and says he thought he was reproducing a lost document. It is right that I should record that when the husband produced a signed version, he did not purport to backdate it. It accurately showed he had only signed that document in 2018 but Mr Brook’s evidence caused me particular concern. He described the deed of trust as being “irrelevant to the deal we did” and said that:

“The trust deed, if it says something out of sync, is all academic between Richard and myself.”

It seems to me that if all of this was academic and there were multiple drafts in existence, why were they not all produced in order for the true explanation to be ascertained?

- 77 He gave evidence, as did the husband, that this does not matter because there is no dispute that it is a matrimonial asset. But, as a property solicitor, Mr Brook must know exactly why it matters, who has the beneficial interest, what is the nature and extent of their interest, and what are the tax consequences of those ownership arrangements? Far from being academic, it seems to me to be absolutely fundamental when one is dealing with an interest in property. Ascertaining current ownership is an absolutely fundamental starting point from which other legal consequences then flow and that is why I say that his approach to this crucial issue is illustrative of the very grave concerns I have and the difficulties that arise from his evidence.

(v) The Spanish Development

- 78 In 2002, the husband, Mr A, and Mr D incorporated and acquired shares in another company which invested in the Spanish Development. The initial phases progressed well and by 2006, an initial loan of £1 million that had been raised had been paid back. In the meantime, the husband says he had entered into a deed of trust with Mr Brook to hold 50 percent of his shares in the company beneficially for him. The deed suggests that Mr Brook had paid in although it is now accepted he had not done so at that point. Mr Brook says he was effectively loaned these sums.

- 79 In 2008, the company became insolvent due to the global property crash and the company becoming liable to reimburse part of some deposits that had been paid. The husband and Mr A raised €600,000 secured over apartments and commercial units. Ultimately, they foreclosed on that loan and those properties are now owned by the husband and Mr A.
- 80 The husband says that Mr D also put up some land as his share of the deal. He says that it was understood that these properties would be owned beneficially by the three or four gentlemen even though this was all now happening outside the original company structure. He says Mr D has been instrumental in running the project and mitigating the fallout. He says he hopes to realise money from this project in the future but it has been mothballed given the stalemate due to the banks now owning some flats in the development and there being a very flat market. He expressed surprise at the SJE's valuation.
- 81 The wife in her oral evidence confirmed that at the time when she knew about the venture, the people involved were Mr A, Mr D, and the husband and, at that point, Mr D did have an interest in the company. However, she says the legal position now means that Mr D is not entitled to share in the value of those properties. She says his interest is in the defunct company, not the properties. She points to the husband's Form E which shows ownership of that land to be 50/50. She says he does not make reference to Mr Brook in the Form E or the attached narrative. The husband disputes this. He says that there were the three main shareholders in the project and it is inconceivable that the project could have gone ahead or continued without Mr D. He says Mr D has been there dealing with the project and it has caused him health problems from the stress and he would not have done that for nothing. He said he was trying to be thorough in the narrative but may not have been as clear as he should have been. Insofar as Mr Brook's involvement is concerned, he points to a 2002 schedule that was prepared which referenced Mr Brook's interest under the declaration of trust.
- 82 Regarding Mr Brook's financial contribution to the venture, he now says that came much later by a trade-off of Mr Brook's 50 percent in the property at W Road. W Road was an investment property bought in 2003 in the husband's name which he says was then held 50/50 with Mr Brook and was included in the Z partnership accounts. Mr Brook dealt with the purchase of the property and in negotiating the subsequent lease.
- 83 In his replies to questionnaire, the husband could not initially recall the financial contributions made by Mr Brook to the Spanish Development and Mr Brook confirmed that, initially, there had been none but he says W Road was the quid pro quo at a time when the husband was an MP and in need of the money that that was generating. The husband in his statement agrees that W Road was the quid pro quo and they say that the estimated value was £675,000.
- 84 The wife says this account makes no sense, that this was a ten-year-old debt, and the original finance has been repaid when the first phase of the investment was sold, and that that bears no relation either to the initial borrowings or to the finance that had been taken out subsequently of €600,000. Half of the husband's half of that debt would be €150,000, around £125,000. She also queries why no stamp duty or CGT was paid on the W Road disposal and why it was Mr Brook who took the advice and not the husband.
- 85 Mr Brook acknowledged that this had been a good deal for the husband given that his exposure was half of the €600,000 finance. He said he did not want to "nit-pick" and the husband says that "if you are in with people, you are in for the good and the bad. The share

may be a terrible investment but that is the deal that was done”. He disputes that the monies paid only correlated to £125,000 of the debt. He says that there had been a debt outstanding for ten years and other expenses had been incurred but he accepts he did not look into it in too much detail. Mr Brooks said that it had not been “cricket” to delay for so long in paying into the deal.

86 The wife queries if Mr Brook therefore really was a half owner in the husband’s Spanish Development. She also says that Mr A makes no reference to him as co-owner. Mr Brook said that he had been in it through thick and thin and felt it would be nonsense for the husband to deny him his share. He was very much of the view that the legal vehicle should be overridden. He did not think that the husband would take a technical issue about the change of legal ownership as this was a joint venture.

87 In respect of Mr D, I note the other witness, Mr A, was not challenged in respect of his written evidence that although he and the husband have legal title to the flats, they regard Mr D as a joint partner in the project despite the change of structure and he talks about them as being the “three musketeers” in the project, and he describes Mr D as still having a beneficial interest.

88 On balance, I accept the husband’s evidence regarding Mr Brook and Mr D’s involvement. Unsatisfactory as the evidence is regarding the W Road transaction and whether any sums were owing in respect of that transaction, it is quite clear from the 2002 document that it was intended that Mr Brook would be involved in the Spanish Development. Mr A’s evidence, who everyone has considered to be a witness of truth, was clear that there were three main joint partners, including Mr D. So I do consider that, on balance, the witnesses are consistent in that regard and the interest should therefore be calculated at 16.5 percent accordingly.

(vi) Mr F loan

89 There is no dispute between the parties that the husband loaned a large sum of money to Mr F, an associate of Mr Brook, in 2002. The issue is regarding the amount of the loan that was advanced and the terms for repayment. The wife is adamant that the husband told her that this was a £1 million loan that had been made to a friend. She says she did not know about it at the time but in the schedule that he gave her in early 2014, it said £1 million. She says that she asked her husband about it and she then did an interest calculation on a large calculator. She said this is all consistent with the loan being for the larger sum of £1 million.

90 The husband’s account is that the reference to £1 million was to the capital and interest that was owing by then as no interest payments or repayments had been made at that time. He says he loaned only £500,000 and that Mr F was never a close friend of his but Mr Brook had vouched for him. He was aware that Mr F had a conviction for fraud in the 1990s but, since then, had become a respectable business man. He says he would not have loaned £1 million even at the height of his wealth but he considered that this had turned out to be the best loan he had ever made.

91 The wife agreed that this had been a beneficial loan arrangement for the family based on what she had learned but she was concerned at the lack of documents especially given Mr F’s history. She said she was also concerned about Mr Brook’s role in this. While she had trusted him during the marriage and she did not want to challenge his honesty, she did query his memory due to the lack of documents and she also thought, although he had been a

wonderful friend to them during the marriage, that in his dealings he could perhaps at times be “a bit sharp”. She says the husband had told her that Mr Brook was holding supporting documents about this loan but she is concerned that has turned out not to be the case as no such documents have been produced within these proceedings.

- 92 The husband’s case is that there is no documentation, it was only “in his head”, and he knows the sum from the actual transfer of money. He said the interest calculations are only approximate as they would not be paid until the loan crystallised. He said that he is an “honourable person who takes people as he finds them”. He trusted this gentleman whom he says he knew to be wealthy and he said there is no need for a fixed repayment date as if he needed the money, he could have it, and he preferred to recall capital rather than to call in interest in order to postpone his tax liability.
- 93 The husband was repaid £200,000 on 26 January 2016 at a time when, he says, there were tax bills to pay. The husband and Mr Brook say they are both clear in their recollection that this was a repayment of capital and not interest.
- 94 The only documentation that has been produced came from the accountants at Mr F’s company, headed “Ledger B”. This ledger produced by Mr Brook showed a £500,000 loan interest accruing annually and the £200,000 as an interest repayment. Mr Brook, it seems acting as a middle man, asked for an amendment to this document. He says it was always clear this was to be capital and that he had had a discussion with Mr F about this at the time of repayment. An amended schedule was subsequently produced by Mr F’s in-house accountant. It seemed to me this aspect of Mr Brook’s evidence was uncharacteristically specific given the vagueness in other areas of his evidence, that he appears to have had a discussion about the payment being capital and not interest, but not at the husband’s instigation, when this could potentially be financially disadvantageous to the husband. Whilst payment of interest would, indeed, generate a tax bill, it would also mean a higher ongoing income stream. As interest was not being compounded, there would be an obvious commercial case to seek repayment of interest first.
- 95 Unfortunately, Mr F has not responded voluntarily to enquiries made by the wife or on her behalf. He has not been witness summonsed. The husband has not made enquiries about calling him as a witness as he said that he is aware via third parties that he would not want to become embroiled in the divorce proceedings. It is highly unsatisfactory that there is not clear documentation in respect of this issue. It is unclear what recourse the husband considers he has if Mr F defaults on the loan for any reason however unlikely he may consider that to be. He has not produced evidence of the sum originally being advanced. He is reliant on Mr Brook for documentation and has not made a direct approach. It is for the husband to prove his case not Mr Brook to prove anything for him.
- 96 However, ultimately it is not disputed that the husband included the loan on the schedule he produced in 2013 for discussion at a sum of £1 million. Had it been a loan of £0.5 million, the interest that would have accrued by then would have increased the sum to something in excess of £900,000. Had the original sum advanced been £1 million, it would have been approaching £1.8 million. No suggestion was put to the husband that he had been receiving other repayments over the years and on balance, therefore, I am satisfied that the lower figure is correct and that the original capital advanced was £500,000.
- 97 There is an issue regarding the nature of the repayment that has been received. It may well not seem sensible to the wife that the husband took the less financially advantageous route.

It may not have been given any thought by him at the time. However, the money that he took in 2016 has not been declared as income. It therefore, it seems to me, must be right that it is treated as capital and I should calculate the loan on that basis.

(vii) The FMH

- 98 The most significant disparity between the parties in their calculations of the available resources is the value of the FMH. They jointly approached Ian Asbury of Strutt & Parker to value the matrimonial home and their other north London properties early on in the proceedings. The husband subsequently made a successful *Daniels v Walker* application and he relies on reports from Riccardo Carrelli from Knight Frank. There have been meetings between the experts but they unfortunately have been of little value as there is a significant disparity in their valuations and in the properties that they point to as relevant comparables. Mr Asbury values the property at £4.95 million and Mr Carrelli at £7.225 million.
- 99 Mr Asbury, who was first to give oral evidence, is an experienced surveyor and also an experienced expert witness. I found him to be measured and considered in the evidence that he gave. He recognised the positives and also a number of negatives of this property. Mr Carrelli is a younger gentleman but also extremely experienced in this field. He was quite confident and unmoving in his views.
- 100 It is clear from the two reports that the FMH is an unusual property. It was one of two built in the 1990s by the husband and his friend. They are in a neo-Victorian style. It is a detached, gated four storey property, 3,750 sq. ft., with a reasonably large garden. It is described as having an unusual construction, as it is built over a railway tunnel, and is described as being built on something akin to a “sprung raft”.
- 101 Mr Asbury initially reported on 15 March 2018. He said that this was a well-designed property with good quality fittings but that were now dated. He thought any purchaser was likely to decorate throughout. He said there is a secure driveway, it has a reasonable sized garden but one that was directly overlooked. He said it was not wholly characteristic of the location and he reached his valuation based on what he described as the “uncertain and subdued property market”. He has provided two supplemental reports dated 7 March 2019 and 29 May 2019. He identified that, if anything, there had been a fall in prices in the relevant market but he thought that there had been no change in value and it was still properly valued at around £1,300 per sq. ft.
- 102 In his oral evidence he was unswayed. He emphasised that this is an unusual property and he says that that made it more vulnerable to market fluctuations and the value more volatile in the current uncertain market conditions. He said in a difficult market, buyers are likely to be more picky and to turn away from properties that do not tick all the boxes. He considered the FMH to be in a less highly regarded road than other adjacent roads. He said that this is a crossroad and the north end of the road is dominated by an estate. He said it is a fringe location which is not characteristic of the adjacent areas for buyers who are looking in the traditional Primrose Hill or St John’s Wood markets. He was concerned about the garden being overlooked and said that its situation on the railway tunnel may well limit the scope to extend which would put off other purchasers.
- 103 Riccardo Carrelli, who was appointed pursuant to Deputy District Judge Butler’s 3 November 2018 order, first reported on 1 November 2018. He recognised the need for caution in view of the state of the market but he said this was a prime residential address

with a large garden. It was secure, gated, and in fair condition although would benefit from refurbishment. When he provided an updated report on 9 July 2019, he revised his original valuation of £7.25 million to £7.225 million.

- 104 In his oral evidence, he explained why he felt that he had honed in on the most relevant comparable properties and why he felt that Mr Asbury had not done so. He says that this is a double fronted, detached, low-rise, secure property, that it was on a prime road in a conservation area, and one that did not have an overlooked garden, or at least no more so than other London properties.
- 105 Given the current state of the London property market, the lack of relevant comparables was an issue raised by both of valuers when preparing their reports. They were able to agree a very small number that they both thought were relevant. They both produced rather more properties but did not agree about how they compared to the subject property.
- 106 Mr Asbury was asked at length about the nearest comparable, a semi-detached property on what the valuers agreed was one of the most sought-after roads in the area. It is described as having been in immaculate condition and sold for £6.75 million in 2018. It is slightly smaller than the matrimonial home at 3,500 sq. ft. That would give it a value per square foot of between £1,800 and £1,900. Mr Carrelli thought that given it was semi-detached and had no private driveway or security features, this helped to prove that his valuation was more reliable. Mr Asbury described this as being a more stylish and more modern property with much wider market appeal and he said that there was therefore a valid reason to distinguish. Mr Asbury felt that the comparables indicated a price per square foot of £1,300 or thereabouts. He felt that that is where the matrimonial home sits in the market as a whole. Mr Carrelli felt that something in the order of £1,900 per sq. ft. would be around the right mark.
- 107 Mr Asbury recognised that the value could be enhanced by spending money on the property. He thought that that could increase the value to over £6 million. There was an obvious logic that refurbishing a property into a turn-key house would enhance its value although the house would probably not be liveable while any such refurbishment was being carried out and he said that, because of that, that is why there is value to a purchaser to avoid a hassle factor and not everybody would be attracted to the idea of that significant level of work. He thought the value is reduced by more, therefore, than the costs of doing those works.
- 108 Having heard the evidence of both valuers, I am satisfied that whilst it might be that an immaculate property on the most sought after roads could command £1,800 to £1,900 per square foot, the matrimonial home is not typical of the properties in that area and it has a number of negatives attaching to it which have not been given proper weight by Mr Carrelli, in my view.
- 109 There was a suggestion that Mr Carrelli was more specialist than Mr Asbury. Mr Asbury confirmed that he had previously worked in the Swiss Cottage area when working for Chestertons and that he was very familiar with the area, although he now works covering a number of prime postcodes including NW3 and NW8. Both valuers, it seemed to me, had considerable expertise in respect of properties in that area but Mr Asbury had rather more understanding of the role of an expert within matrimonial proceedings. Mr Carrelli confirmed that a large part of his experience is in doing statutory valuations. Hence, he had asked for a valuation date at one point. That, of course, is a different exercise to valuing for matrimonial proceedings. It is also a matter of concern that he took with him the agent who

had previously carried out a valuation. He said this was standard practice despite having been made aware that the agent's previous valuation was not to be relied upon in the proceedings.

- 110 Mr Carrelli confirmed that his provisional view is that the house would be worth over £7 million before he had seen the property. He thought that at value of around £2,000 per sq. ft. a property of approximately 4,000 sq. ft. would be worth around £8 million. My concern on hearing his evidence was that he had become somewhat entrenched in that view. Unlike Mr Asbury, Mr Carrelli was unable to acknowledge that there was any factor that would impact on the desirability of this property and therefore its value. I accept Mr Asbury's evidence that it is not on one of the prime roads, that there is potentially limited scope to extend which might concern a number of potential purchasers, it is of a different style to other properties in the area, and it is overlooked in the sense that it is built perpendicular to other adjacent properties. Mr Asbury was quite clear that when he went into the garden the property was, in his view, overlooked. I do not accept that he was mistaken in that regard. He described it as having a "goldfish bowl" feeling. Mr Carrelli viewed it in a different month. It may have been less apparent. However, I consider Mr Asbury as being far more measured and realistic in considering what would impact on potential buyers viewing this property and he has considered the negatives as well as the positives. Mr Carrelli was simply not willing to countenance that there was anything negative about this property and has barely moved from his initial estimate. He has produced a very select number of comparables, a significant number of which are either better located or in a better condition.
- 111 At the other end of the spectrum, he also sought to rely on heat maps produced by his company which seem to me to be a broadbrush approach in the extreme. Mr Carrelli had to acknowledge that there would be nuances in the patches shown on the maps. It does not assist me to know what the average is, or what the optimum sale price might be. I need to know the realistic sale price for this property looking at the current market. Mr Carrelli complained that Mr Asbury was throwing everything in and pulling up discrepancies in valuation but I reject that analysis.
- 112 Mr Carrelli's first selection of comparables included properties which had direct views of Primrose Hill and much larger properties, ones that were in the heart of Primrose Hill village, for example. His formulaic approach of adjusting values, it seemed to me, did not necessarily factor in the significance of a property's location when he himself acknowledged that being on one side or other of a particular road could make a significance difference. I am satisfied that the former matrimonial home is an unusual property that would be being sold in a challenging market. The FMH is in a road which does not have the calibre and prestige of other roads. I accept Mr Asbury's evidence that the problem is that in a weak market, if something is a bit off putting, people will go and buy something else. All of those aspects seem to me to have been disregarded by Mr Carrelli. He was of the provisional view that the property was worth £7 million to £8 million. He relies on his colleagues and other agents giving desktop valuations saying that it would be worth around £2,000 per sq. ft. but that, it seems to me, does not have regard to the condition and location of this property when one looks at the properties that are selling in the £1,900 to £2,000 per sq. ft. bracket.
- 113 I also bear in mind that the other agents that he has spoken to are reliant upon him for the more detailed information about any significant features of this property and are therefore not wholly independent. Mr Carrelli's evidence is that there were no real compromises and that this property ticks every box. I reject that evidence having heard his evidence and that

of Mr Asbury. Mr Asbury has no personal interest in raising any issues regarding what would appeal to potential purchasers. He identified a number of compromises all of which are being rejected by Mr Carrelli out of hand.

114 For those reasons, I find Mr Asbury's evidence to be more reliable and I am satisfied that the current value of the property is in the region of £4.95 million albeit I must bear in mind the prospect of considerable enhancement if money were to be spent renovating it throughout.

115 Of course, I have to remember that one option in respect of this property where there has been a significant disparity in views put forward about its value would be to put it on the market for sale and to test the market. I do not consider that it is appropriate to put this property on the market thought given the facts of this case and given issues that relate to the wife's health to which I will now turn.

(viii) The wife's health

116 The parties were aware that there were issues in respect of the wife's mental health quite early on in the marriage. She was then diagnosed with a form of obsessive compulsive disorder in 2013. That manifests in a condition that has been diagnosed during these proceedings by the single joint expert, Dr Petrusa, as a hoarding disorder.

117 The wife accepts that that has had a significant impact on the husband and their children and that it contributed to the breakdown of the marriage. I have been told that the rooms in the house have become increasingly full since the house was acquired in 1999. The husband says that he thinks this condition has been developing and deteriorating for 30 years or more. He says at the time of an earlier house move, there were perhaps two boxes of newspapers. The wife now estimates that there are between 100 and 150. She says she is not able to throw any away until she has looked through those papers to identify any articles of potential interest and she would then have to read them before she would feel able to dispose of them.

118 She has a room full of boxes of unopened porcelain, I am told. There are piles of books and boxes elsewhere. There have been difficulties locating personal items and paperwork due to the condition of the home. Post has often gone unanswered. The husband has received a fine for not taxing a car because the wife had not opened the letters nor sent on any of the remainders. I am told there are further items in two storage units belonging to the wife.

119 Dr Petrusa describes the origin of the condition as being in significant childhood trauma that had been suffered by the wife partly linked to the amount of disruption and number of house moves that she had experienced in her early years. She has talked both to the single joint expert and also within these proceedings about the reasons it is important to her to have personal objects around her. She says that they contain memories and there is a level of security in those objects that cannot let her down. She feels the need to be surrounded by those belongings. She describes the hoarding of those items as being a "part of her".

120 Issues were raised in respect of her capacity within this litigation. It was confirmed that she does have capacity to conduct litigation and to manage her affairs but that it has been impaired by her health. Her condition manifests in avoidance and procrastination and she has particular difficulty in making decisions with high emotional relevance. She has a particular anxiety about financial disadvantage that is linked to the disorder. The difficulties are described by Dr Petrusa as being chronic and ingrained. He said that, with support, she

would be able to deal with properties and investments but that a house clearance was likely to be deeply traumatic for her and, ultimately, both she and the husband concurred with that opinion.

- 121 The expert's view was that with specialist support, it might be possible within five to six years for her to clear the house. He was not able to be any more specific. He thought it would be sensible to see what progress could be made over six months and then reviewed to see if the timescale was becoming any clearer. She is engaging with a CBT therapist and she also has a PA who is helping her start to clear the house gradually. She has recognised within these proceedings that there is a need to tidy the house and to get her things in order but she confirms she does not want to get rid of her belongings. She estimates that she has dealt with only five percent of her papers. She says she had 800 unopened letters. She has disposed of a small number of them, urgent matters have been dealt with, but others are still to be processed and they are contained in several boxes.
- 122 The husband has been keen to emphasise the help and support that would be available to the wife to assist her in addressing this situation. He says he accepts that there is a real risk that the five to six-year timescale is borne out and there are no more guarantees about that. He says he would love for her to remain but that he has concerns for his own rehousing and he does consider that the house could be sold after a suitable period of time.
- 123 Having regard to the uncontested medical evidence, I reject the husband's stance in that regard. He compared the comforts that the wife obtains from staying in her home of 20 years with her possessions around her with her particular condition to the comfort that he obtains having a second home in Brighton. He told me that he thought the impact on the wife of learning about the possibility of the home being sold was equivalent to the same way that matters have upset him in this litigation even though he acknowledged that requiring her to leave the home risked causing her "great trauma". I am satisfied that the suggestion to her just before the matter was listed for final hearing that the house might be sold would have been highly distressing for her.
- 124 I accept the unchallenged evidence of the single joint expert that a forced house move would currently be severe and debilitating for her. That, whilst after six months one may have an indicator as to what progress she is going to make, the expert was certainly not expecting her to make significant progress in anything like the three to four years that she initially suggested in her Form E that she might require to clear the home. Progress has been slow and is likely, in my view, to remain slow. There is a willingness on the wife's part to make progress but that is going to be constrained by the impact of her condition. It seems to me an order for immediate or deferred sale would be likely to be a cause of significant anxiety and to risk a further deterioration in her mental health and I do not consider that such an order would be appropriate if the parties' resources are capable of meeting their needs based on her retaining that property. I am satisfied that their needs can be met, save in that regard, for reasons that I will come to and I thus will not be ordering a sale of the matrimonial home.

Section 25 of the Matrimonial Causes Act 1973

- 125 The wife's health, of course, is only one of the factors that I must have regard to at s.25(2) of the Matrimonial Causes Act. I have to have regard to all of the circumstances of the case as well as all of the matters that are set out in that subsection.

- 126 This has been a long marriage, 31 years to separation and over 35 years to the date of decree nisi. They have now been living apart for approaching six years. They are now 60 and 61 years of age. Their contributions to this marriage have been different but equal, the wife as a homemaker and the husband as a breadwinner. The family has benefited from the husband's entrepreneurial skills in developing the asset base during the course of the marriage. That has enabled them to enjoy an excellent standard of living although that has been increasingly impacted by the wife's health and that has been a significant feature of this case for the reasons that I have set out.
- 127 Her condition has impacted on her and the whole family to date and it will continue to impact on the wife's life going forward and her ability to make decisions. Mr Harrison reminds me that I must be alive to those issues and ensure my award does not discriminate in any way.
- 128 Whilst conduct is not specifically pleaded as such by the wife, she has raised a number of concerns about the husband's disclosure and some of those issues have fed into the findings that I have made for the reasons that I have set out elsewhere in this judgment. The husband has been critical of the wife's approach to this litigation. He says that she has been heavy handed because he says this is not a case where there have been wanton and reckless actions or where there has been non-disclosure on his part. In opening, it was suggested that I should make a finding that her attitude changed once she learned of his new partner and that it is this that has marred and complicated the proceedings.
- 129 Given the findings that I have made about the discrepancies in the husband's disclosure, about the complicated nature of the asset base, and the difficulties that I have had in reconciling the various accounts the husband and his witnesses have put before me on the various issues, I would struggle to criticise the wife for her persistence regarding disclosure issues even were it not for her own health issues of which I am extremely mindful and I do not consider that criticism to be warranted.
- 130 It is agreed that as a starting point, my approach should be to quantify the assets, to consider a number of discrete issues about who should retain which of the main assets and whether there should be a pension sharing order, and having done that, I should then consider whether an equal split would be adequate to reflect each party's entitlement to share in the fruits of this long marriage but also to meet their needs. The husband says that an equal share is an end of the matter. The wife says I should then go further and I should depart from equality in order to meet her needs. Specifically, I have to look at how the parties' housing and income needs are to be met. In the wife's case, I must consider the impact that her health may have in respect of the management of her financial affairs and what the reasonable expectations of her may be, and I have to consider any additional financial impact of the support that she will need.
- 131 There is a dispute between the parties about the extent to which it is appropriate and reasonable to expect the wife to amortise capital. The husband says that applying the guidance set out by Lord Justice Moylan in the case of *Waggott v Waggott* [2018] EWCA Civ 727, and more recently the discussions by Francis J in the case of *O'Dwyer v O'Dwyer* [2019] EWHC 1838 (Fam) it is perfectly reasonable to expect her to amortise a significant proportion of her assets.
- 132 The wife says that the husband's expertise in business matters enhances his prospects of achieving a greater rate of return on his investments. She says he will also have an ongoing

income either from Parliament or from future employment. She has no other income and she says by her nature she will adopt low risk strategies. She will need to engage financial advisors to assist her and that is going to impact on how she meets her needs. She says I should be cautious, therefore, when looking at rates of return and expectations of her to deploy capital to meet income needs.

(i) Assets

- 133 I have provided to the parties with this judgment a summary asset schedule setting out the computation of the assets based on the findings that I have made. By way of summary, I calculate the total pot to be £19.57 million of which £17.6 million is liquid and £1.97 million is in pensions. I have taken the lower value for the former matrimonial home of £4.8 million. I have valued the husband's share in the Spanish Development at £120,000 and the Caribbean property at £649,000.
- 134 In respect of the figure for investments, I have taken the husband's calculations, including an adjustment for capital gains tax. In respect of monies owed, I have removed the reference to monies owed by Mr Brook for the works at the St John's Wood property but I have also removed from the liabilities on disposal the suggestion of sums owing to him as I consider one offsets the other.
- 135 I have updated the calculation for chattels including any cash at home. In liabilities, I have included any outstanding legal costs that were on the parties' Form H at the time of the final hearing before me which is a relatively small balance on each side of the very substantial costs that have been incurred to date in this litigation. Under liabilities on disposal of the various property interests, I have made the appropriate adjustments for the St John's Wood property's and Property Company X's tax rate. I am not persuaded it is appropriate to include a sum for the wife to include the cost of works to be done to the matrimonial home as it seems to me that I would then need to consider any potential enhancement of value.

(ii) Distribution issues – Brighton

- 136 In considering the distribution of the assets, I must consider two issues. Firstly, Brighton. The parties have a second home that was bought in Brighton in 2007 in the husband's name which was then transferred to the wife's name when he became an MP. It is a three bedroomed penthouse flat of around 16,000 sq. ft. A transfer back to the husband would trigger CGT. The wife very much wishes to retain that property as does the husband.
- 137 The wife says to me that it is an important sanctuary for her. She says it is a familiar and tidy place to which she can travel and that it would be hard for her to buy an alternative property. She says it would be much easier for her to retain an asset rather than to have to purchase a new one. She says that such a purchase would be fraught with difficulty.
- 138 The husband says that this was his place of solace throughout the relationship. He says the property means everything to him, that he travelled almost every weekend during the marriage and after separation until the wife took his key in 2017. He said that during the marriage it was rarely used by the wife other than visiting for special occasions. Mr Brook is their neighbour. He says he used to look after the flat but that has not been possible since his friendship with the wife broke down.
- 139 The wife has been distressed that the husband did not tell her that Mr Brook had stayed in the flat and that he had let himself in on another occasion, he said, to access his own

belongings that were in the flat but the wife believes that he intruded into her privacy on that occasion.

140 He accepted that there was some strength in the argument that it might be harder for the wife to find another property. However, in circumstances where the wife is going to be retaining, in my decision, the matrimonial home, I do not consider that it is realistic or fair to the husband for the wife to also retain the Brighton property. The priority for the wife must be in meeting her housing and her income needs but I do not consider that her housing needs extend to a second property in addition to the mortgage free matrimonial home which represents almost a quarter of the parties' assets.

141 Likewise, for the husband, I do not consider that he has an automatic entitlement to a second home but it is a matter for him if he wishes to retain or sell Brighton and use the proceeds in another way. I note that he has a mortgage on the St John's Wood property and therefore, even if he retained Brighton, the combined capital in the two properties would still fall far short of the equity in the matrimonial home. However, it seems to me that it is quite reasonable, looking at the value of the properties and what has been retained by each party, that the husband should retain the Brighton flat and it should be transferred to him.

(iii) Distribution - Pensions

142 There is then an issue in respect of the pensions. The wife seeks to share both in the SIPP and the husband's parliamentary pension. There is no issue in respect of the parliamentary pension but in respect of the SIPP, there was an initial agreement that that would not be subject to a pension sharing order. The wife says it has become apparent that there are significant tax issues in respect of the SIPP. She therefore proposes that there is a pension sharing order in order to avoid a significant depletion of the pension assets available.

143 The husband is not in favour of a pension sharing order for the SIPP. He says he would be concerned about the wife having co-ownership even through a pension fund of properties which are co-owned with his friends and associates. There is an overlap between the properties in the SIPP and the Property Company X investments. There are therefore connections to Mr B and other of the close friends. These assets, I am told, are controlled and run by Mr B. He considers that a pension sharing order would only make sense if it could be done in a way that did not involve the wife being a co-owner with third parties who are known to the parties.

144 However, I consider that there is an obvious and compelling argument to maximise the value of the assets in the pension funds and that is by there being a pension sharing order. It seems to me that given the tax implications if there were not to be a pension sharing order, that the personal convenience of the trustees is not a compelling or weighty factor as that would do nothing to mitigate the tax consequences proposed by the husband. I do not consider that the wife should be penalised by a reduction in the available pot. The tax that would be incurred would be almost £400,000, so almost £200,000 would be lost by each of the parties. So I do propose to equalise the value of the pensions across the board.

(iv) The parties' capital needs

145 Taking then an equal distribution of the assets as a starting point, it is my proposal that the wife will retain the matrimonial home, W Road, the Israel property, and other personal assets and chattels in addition to receiving a balancing lump sum which I calculate to be £1.11 million. That will be on the basis of equalising the pension CE values so the wife

would receive the entirety of the parliamentary pension and approximately 40 percent of the SIPP.

- 146 The husband would retain the St John's Wood property. Brighton will be transferred to him. He will have G Road and all of the other investment properties other than the two retained by the wife. He will keep other assets and chattels in his sole name. After payment of the lump sum to the wife, he should still have some surplus in the C investments and he will then retain the remainder of his SIPP. I am satisfied that both parties' housing needs will be met both in the short and longer term on those arrangements, the wife retaining the matrimonial home and the husband retaining the St John's Wood property and Brighton.
- 147 I would expect and I accept the wife's evidence that she intends to continue the long and arduous task of working her way through her belongings. It is a very large house. I accept her need to remain in that property for the reasons I have set out. I am also mindful of the lack of a support network that she has and other stress that will be caused to her if she were forced to move to another location but such a large property is likely to be difficult to manage in her later years and I would hope that in the next five to ten years, she is able to make sufficient progress in the clearing that she can then make decisions about her longer term housing needs without the added pressure of having to deal with her belongings. However, I recognise there is a possibility that she may never feel ready to move out of the house given the medical evidence.
- 148 The husband has put forward properties to which he says she could move. I reject his suggestion that she could rehouse for an average of £2.5 million. Given the medical evidence I have read and the standard of living during the marriage, I do not accept that the properties put forward would all meet her needs especially those at the lower end of the bracket proposed by him many of which have no outdoor space and are extremely small. I think it would be very problematic for her to downsize either in the short or medium term to that extent even if a significant amount of her possessions were filtered or moved into storage. The properties proposed are smaller than Brighton which the husband proposes to keep as his second home.
- 149 In retaining the St John's Wood property, of course, that is a property that is co-owned with Mr Brook and is also subject to a mortgage. The husband has said he will make decisions about his future housing depending on the outcome of these proceedings. He has disputed that he would be able to buy Mr Brook out of the St John's Wood property. It seems to me that he could rearrange his assets to pay off the mortgage to buy out Mr Brook if he wished to do so. I suspect it is more likely he will remain there in the medium term under the current arrangement and retain Brighton until he makes longer term housing decisions. It seems to me that his housing needs will be met amply whatever decision that he makes. I do not consider it is likely that Mr Brook will take any decisions which will jeopardise his security of tenure as such a close friend.

(v) The parties' income needs

The husband

- 150 Looking at the parties' income needs, there is a suggestion that the husband can earn money in future employment, in that he could take on non-executive roles or speaking engagements after his career in politics comes to an end. He was a minister for business for several years until he stepped down earlier this year. He says that that was not a key role as he was one of four parliamentary undersecretaries and he says that a significant number of more

experienced politicians have stepped down from ministerial roles compared to him. He says that the people who are earning money from private engagements have vastly different experience to him either in the job market or in government. He says he did not build his profile in the press during his political career and now that he has wholly different views to the current Prime Minister, he does not expect to have any future role in that regard. At the hearing, he had not been approached and he did not expect to be approached and he has confirmed that it is his intention to stand down at the next election, which may turn out to be imminent.

- 151 He is approaching ten years in public service. Prior to that, he had a successful career in property and then also worked in charity. He will be 62 at the end of this year. It is almost six years since the parties separated. There is a substantial asset base to be divided between them. I do not consider that it is reasonable to require him to work if he does not wish to do so. I consider the assets to be ample to provide for the parties' needs and I do not consider that there would, in any event, be any sharing claim to any future income that he would be able to generate.
- 152 On the proposed distribution of the assets, I calculate that he would generate gross income from the SIPP of £48,000 per annum and £98,000 per annum in rent, giving him gross income of £146,000. If I then leave to one side the UK investment properties, the St John's Wood property, and Brighton, and chattels, but if I take into account his financial commitments by way of liabilities and payments due to the wife, he has surplus capital of £2.3 million. That would generate a notional *Duxbury* calculation of £140,000. It seems to me that in looking at the total income that he could therefore have from all sources, including applying around £2 million of capital for this purpose, he would have total annual income of around £220,000 net.
- 153 There are issues regarding the liquidity of a number of his investments that he seeks to retain at the conclusion of these proceedings. He does not argue for a departure from equality in his favour although he has reminded me of issues of liquidity as part of his reason why he said I should not depart from equality in the wife's favour. I recognise that there are issues of liquidity. However, a significant proportion of his liabilities on disposal will only be incurred as and when properties are disposed of. So almost £1 million of his liabilities will only crystallise at later dates when the proceeds are realised.
- 154 He has a number of assets which are currently not income generating and he has a significant degree of flexibility whether to endeavour to generate an income from them or whether to seek to liquidate them and reinvest or redeploy capital elsewhere. His expertise and the breadth of his portfolio, it seems to me, give him a wealth of investment opportunities and I am quite satisfied that he is going to be able to general income to meet his needs going forward even after his departure from political life.

The wife

- 155 There is no suggestion that the wife has any independent earning capacity other than what will be generated from pensions and investment income. She says that her needs are £248,000 per annum. The parties enjoyed a high standard of living during the marriage. The costs of running the home are substantial. Other costs in her budget are quite modest such as with food and holidays. She has included a number of staffing costs; she says she needs a cleaner, a PA, and a gardener, and also, she will need a financial advisor that she has not yet budgeted for.

- 156 The husband disputes the wife's budget and says that she could reduce her costs to around £157,000 a year. He says that during these proceedings, she has survived on £7,500 per month and that is a more realistic figure but I accept the wife's evidence that during the course of these proceedings, she has not had access to monies for all of the essential repairs that she would have wanted to carry out to the home and other ad hoc expenditure.
- 157 A key part of my function is to be satisfied that she will be able to meet her needs. I would not expect her to take any undue financial risks in investing her funds. The wife says that I should not discriminate due to her health and I must be careful to ensure that any additional costs that would not be matched by costs that the husband will incur are all taken into account. I have to be satisfied that she is able to manage her funds and that she has all of the assistance that she requires.
- 158 I accept those contentions in principle but I am also satisfied that a reasonable budget for her moving forward is less than that which is being set out. In looking at her budget, I propose to remove the running costs for Brighton which will be retained by the husband, and to remove charitable donations. It is obviously a matter for her whether she chooses to make those payments in future. However, that immediately takes the budget to £210,000 per annum. That includes the housekeeper, the PA, and the accountant. She will also need financial advice which is not currently budgeted for although it is unclear to what extent there will be upfront fees and to what extent it will simply be a charge on annual investment income. I am satisfied that she will be able to meet her needs going forward from the resources that she retains. There is a large amount of discretionary expenditure in her budget which may be higher or lower in given years and she will have a choice as to whether to spend those particular sums.
- 159 In looking at the income that she would receive from a half share of the matrimonial resources, she would have an income from property of £115,000 per annum, the parliamentary pension would produce £14,000, and the SIPP £33,000. That would be a gross income of £162,000. I calculate that she would have surplus capital of around £2.1 million. The combination of the *Duxbury* calculation for that figure and her income from properties and pensions would give her net income of between £200,000 and £210,000 per annum. I am quite satisfied that that will be adequate to meet her needs.
- 160 She will be expected to amortise at least the £2.1 million of surplus capital. I consider that it is reasonable for her to do so in the same way as I consider it is for the husband to deploy a similar sum in that regard as his other sources of income will shortly be coming to an end. She, of course, also has the option to release other capital. She could release sums from the matrimonial home if she chooses to do so in the future. I am not requiring her to do so but she will have the choice depending on the budget that she wishes to set for herself but if she does choose to liquidate any sums from the house, she will be able to do that at a time and in circumstances of her choosing.
- 161 I recognise that the distribution of the assets involves assets of very different natures. There are issues of liquidity, of taxation, and practicalities about how to realise capital from particular investments especially a number of those retained by the husband. Given the size and the breadth of the asset base, calculating the parties' projected income is necessarily quite an inaccurate science and it is necessary to take quite a broad-brush approach given the number of permutations of investment decisions that will ultimately impact on the rate of return that each manages to achieve in the future. However, I am satisfied that the assumptions I have relied upon are reasonable and that they are fair in that I have applied

comparable assumptions for both parties but there is an inherent imprecision in the nature of the calculations I am being asked to carry out given the number of variables that will impact on each of the parties.

- 162 I am not able to identify any reason to depart from the well-established investment rates of return that that are commonly adopted within matrimonial proceedings. The husband is, of course, likely to be able to use his own expertise for investment decisions. The wife is likely to need investment advice to ensure that she has an appropriate rate of return to sufficiently secure investments and income. Whilst it may take some time for her to take that advice and decide on a strategy, I am quite satisfied that with that advice, she will be able to control the decisions about risk and return and that standard rates are also appropriate for her.
- 163 The wife has accepted in her own proposals there would be a need to amortise some of her capital. The husband has argued that much greater sums should be amortised. I do not expect either party to amortise all of their capital. My assumptions provide for each of them to amortise a similar sum but each will have considerable leeway in how they deal with the majority of their capital assets going forward.

Proposed order

- 164 On that basis, I am satisfied that an equal division of the assets in the manner I have set out will provide each party with a fair share of the matrimonial resources and provide them with the ability to generate comparable levels of income that will be adequate to meet each of their needs generously assessed. That then is my decision in respect of the main issues that I have been asked to be determine.
- 165 In respect of some of the subsidiary issues that will need to be dealt with as part of any order, it is my intention to provide that there will need to be time for the wife to vacate Brighton and I hope that can be agreed prior to any further hearing being listed. Payments of maintenance will need to continue until the final order has been formulated (and potentially implemented), and I will need to hear further about that if there is no agreement about what the transitional arrangements shall be.
- 166 In respect of Israel, there are issues in respect of the title. I will be expecting the husband to take any necessary steps to regularise the title and transfer it to the wife. It seems to me that the costs of that should be shared as should any taxes or equivalent charges arising.
- 167 The vinaigrettes should be delivered up to the husband and if any other personal belongings of his are located at the matrimonial home, they should be delivered up to him as and when they are located.
- 168 If there are any issues about any of those matters, I will consider those and any other consequential issues arising at a further hearing that I will be listing.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

Transcribed by Opus 2 International Limited.

Official Court Reporters and Audio Transcribers

5 New Street Square, London EC4A 3BF

Tel: 020 7831 5627 Fax: 020 7831 7737

civil@opus2.digital

This transcript has been approved by the Judge