

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

IN THE FAMILY COURT  
(Sitting at Cambridge)

No. PE19P01623

Cambridge County Court and Family Court  
197 East Road  
Cambridge  
CB1 1BA

Friday 16 December 2022  
Neutral Citation Number:[2022] EWFC 171

Before:

HER HONOUR JUDGE GORDON-SAKER

**(In Private)**

B E T W E E N:

Mr K

Applicant

- and -

(1) Mrs K

(2) THE CHILDREN

(by their Children's Guardian)

K v K (no. 2)

Respondents

\_\_\_\_\_

THE APPLICANT appeared in Person.

Ms Maxwell appeared on behalf of the First Respondent.

Mr Newport appeared on behalf of the Children's Guardian.

\_\_\_\_\_

**A P P R O V E D J U D G M E N T**

JUDGE GORDON-SAKER:

1 These proceedings concern three children. They are A, who is 13, and B and C who are 9. Their parents are Mr K and Mrs K. They were married, so they share parental responsibility for the children. They separated on 19 August 2017. There were divorce and financial remedy proceedings in 2017 and 2018 and then these Children Act proceedings began in 2019. The history will be familiar to those who have read the judgment of the Court of Appeal in *K v K* [2021] EWCA Civ 468. This judgment will be published in an anonymised form. I will refer to the parents generally as “mother” and “father” to assist with anonymisation. No disrespect is intended.

### **THE BACKGROUND**

2 In the bundle to the hearing, I have a litigation chronology from which I take the relevant background to the proceedings. Following the parents’ separation, the children initially remained in the family home with their mother and had staying contact with their father. In early 2018, A refused to go to contact. The twins continued to have staying contact.

3 On 12 December 2019, father made an application for the court to decide how much time the children should spend with him. He asked the court to order the children’s mother to cease her campaign of parental alienation and to order restorative solutions to remedy the severe effects of the parental alienation so that his relationship with his children could be healthier and more normal. He wanted the children to spend every other weekend and half the holidays with him and for there to be flexibility taking into account work commitments.

4 In his application, father said mother subjected the children to adult themes and discussions, and derogatory remarks, and he accused her of being manipulative. He said that he had threatened to take her to court and then she made life even more difficult. That is not correct. He said that mother is, again, preventing consistent access to the children and has again, suddenly without cause or explanation, “dictated that I cannot have our twins overnight again.” I now know that an explanation was given. He failed to mention in his application the events of the previous weekend in relation to C. Up to then, the twins had been staying regularly with their father.

5 On the CIA, he said mother was a recreational drug user in her early life and her behaviour with regards to irrational and unreasonable prevention of access to the children suggests her judgment may be impaired by such activities again. He said mother regularly raised financial issues with the children and then he spoke to them about it. He said that an urgent hearing within forty-eight hours was required and he claimed a MIAM exemption.

6 In her reply, mother said father had told the children that they had to love his new partner and children as they were his new family and she said father kept guns and had scant regard for safety. She made allegations of neglect and of abuse by father towards the children. She also said she was concerned about what he said about her to the children. He, in turn, responded to that.

- 7 The case was listed for a First Hearing Dispute Resolution Appointment on 19 February 2020. Then the case was reallocated to District Judge Capon (as he then was) and the FHRA took place on 26 February 2020. The safeguarding letter from Cafcass contained serious allegations made by mother. Domestic abuse was raised as an issue and directions were given for a fact-finding hearing, for there to be a list of allegations, responses, and statements. Police disclosure was ordered. It was agreed that indirect contact would take place three times a week. The parents agreed that the children would not be exposed to adult issues between the parties, that they would not post on social media or internet sites any reference to these child arrangement proceedings and that, save for an emergency, the form of communication between themselves should be written communication and WhatsApp messages. B and C were to spend time with their father on alternate weekends, either on Sunday between 10.00 a.m. and 6.00 p.m. with an agreed third-party adult present, or on Saturday at a contact centre.
- 8 There was a pre-hearing review on 6 May at which Judge Capon deleted some of the allegations from the schedule. He gave directions for further witness statements and for the father, who was in person, to send to the court his questions for cross-examination. At the fact-finding hearing on 24 and 25 August, Judge Capon made a number of findings against the father and he directed Cafcass to prepare a s.7 report. Father appealed to the Circuit Judge who dismissed the appeal on 9 April 2021. Father appealed to the Court of Appeal.
- 9 On 17 May 2021, at a time when contact with the younger children was meant to be taking place at a contact centre, father applied for an enforcement order because the mother had not made the children available for contact. He had not seen the children since 25 March. At a final hearing on 28 October and 25 November, Judge Capon found that mother had a reasonable excuse for breaching the previous court order for contact. He considered the evidence of the parents and the Cafcass officer and he made an order for the children to live with their mother and to have monthly indirect contact with their father.
- 10 On 8 April 2022, the Court of Appeal handed down judgment and gave guidance on the proper approach to fact-findings. I have read the judgment and also the judgment in *Re H-N and Others (Children) (Domestic abuse: finding of fact hearings)* [2021] EWCA Civ 448. I have also considered the President's guidance on fact-finding hearings of domestic abuse in private law proceedings dated 5 May 2022. The Court of Appeal set aside the fact-finding judgment and remitted the matter for a Circuit Judge to decide whether a fresh fact-finding was required. The then designated Family Judge appointed a guardian pursuant to r.16.4, directed the parents to attend a Separated Parents Information Programme, which they have both done, gave further case management directions, and listed the case before me.
- 11 I regret that the window for mediation to have a chance of working has passed. In the WhatsApp messages which father has provided from June 2019, the problem with contact seems to have been which weekends the children would be with him and if he has confined his application to that issue, mediation in 2019 might have been successful but not now.
- 12 On 5 August, I directed a list of allegations to be provided adopting the approach taken in *Re B-B (Domestic Abuse Fact-Finding)* [2022] EWHC 108 (Fam). Having considered Practice Direction 12J and the submissions made to me, I limited the issues for determination at the

rehearing. The mother applied for permission to appeal my decision. She was refused permission to appeal by Sir Jonathan Cohen on 12 August. On 2 December, I gave further directions and settled the ground rules for this hearing. Father has provided his questions in writing. I explained the procedure to him. As these proceedings pre-date the Domestic Abuse Act, I have dealt with cross-examination and counsel for the guardian followed up on matters which he felt should be explored to assist the court and the family. I also allowed father to provide further questions in cross-examination. For the sake of completeness, I should add that the Supreme Court refused the mother's application to appeal from the Court of Appeal.

### **THE ISSUES AND THE LAW**

- 13 For this hearing, the bundle has been limited to the documents relevant to the fact-finding. I have read the bundle and I have heard oral evidence from each parent, from both paternal grandparents, and from the maternal grandmother. I will not use their names, again to assist with anonymisation. Father provided additional questions on the first day. I explained to him when there were a few questions which would not be put in cross-examination, my reasons for that. The scope of this hearing has been limited to matters relevant to contact and some of his questions were an attempt to raise issues outside the scope of this hearing.
- 14 Each parent made allegations against the other, many of which are not relevant to the making of a Child Arrangements Order for the children to spend time with their father. The children had regular unsupervised staying contact with their father from August 2017 when the parents separated until early 2018, in the case of A, and until December 2019 in the case of the twins. The difficulties within the parents' relationship prior to their separation would not assist the court in deciding what contact is in the children's best interests now. The issues are whether father inappropriately chastised the children; whether he exercised coercive and controlling behaviour to the mother in and surrounding contact; whether he displayed emotionally dysregulated behaviour in the presence of or towards the children; whether he abused or intimidated the children; and/or whether mother has alienated the children from their father.
- 15 Each parent has to prove the allegations they make on a balance of probabilities. I have regard to all of the evidence in the context of all of the other evidence. I have to survey a wide canvas. I have evidence from a number of sources. Some of it is hearsay and I take that into account. The parents' evidence is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. Each parent considers that the other parent is not telling the truth about some of the events. I bear in mind that witnesses can lie for many reasons but also that their recollections of events may vary. I explained to father the *Lucas* direction which I was giving myself. Sometimes, people may not raise all of their concerns at the outset but that does not mean that they are being dishonest when they do.
- 16 In relation to parental alienation, I have been referred to the Cafcass website pages. I am aware that the definition has varied over time and that not all professionals in this field would use the term "alienation". Cafcass helpfully reminds me that "alienating behaviours present themselves on a spectrum with varying impact on individual children which requires

a nuanced and holistic assessment”. They use the term “alienating behaviours” to “describe circumstances where there is an ongoing pattern of negative attitudes, beliefs, and behaviours of one parent or carer that have the potential or expressed intent to undermine or restrict the child’s relationship with the other parent. It is one of a number of reasons why a child may reject or resist spending time with one parent post-separation.” Cafcass considers the child’s unique experiences and they look at the whole picture. In this case, I have looked at all of the evidence and considered the whole picture.

- 17 In his statement, father says that mother has broken several court orders by not making the children available at the contact centre after March 2021, by not providing him with photographs, school reports, updated medical information, and not encouraging the children to respond to the indirect contact. That postdates the events that led to the breakdown in contact. Having heard their evidence, I reject the father’s evidence about the indirect contact. Mother said, and I accept, that she messages him about illnesses, sports matches, and that he gets the school information. In their oral evidence, father and paternal grandmother confirmed that they receive WhatsApp messages from the children.
- 18 Father says mother cancelled the 14 February 2021 contact and that she engineered his 18 February cancellation. She says he cancelled the 18<sup>th</sup>. He did. Neither of them can see the other parent’s point of view. Father sees it as alienation that mother did not allow contact for the first few weeks after they separated and that the paternal grandfather should attend the first contact visits rather than seeing that his unexpected decision to leave might have unsettled the family and a few weeks to sort out a plan might benefit the children.
- 19 In her written evidence, mother says that she attended the Freedom Programme and that, together with the passage of time, has made her stronger, more insightful, and more aware of the domineering relationship within which she and the children existed due to father’s behaviour. She says he bullied and belittled her, and over time her self-confidence and self-esteem were eroded. The examples before the parties separated which are relevant to the children are the allegation that he routinely demanded A to do things for him, such as get him a glass of water, and if he said “no”, he would become moody and keep asking her to until she said “yes”. He would get angry with mother because she had not trained A to do what he wanted. She said father would get angry suddenly, the children were wary of him, and that he manhandled B for perceived misdeeds, whereas C was compliant. She describes having to lock herself and A in the bathroom to protect them from father because they were the focus of his anger and relentless questioning.
- 20 Mother’s allegations of coercive and controlling behaviour in and around contact include that father dictated when he could see the children, that he got angry and aggressive, and threatened to call the police when she stopped overnight contact, that he did not tell her about the occasion where C had blood in her urine and that upset C. She also gives examples of father displaying emotionally dysregulated behaviour in the presence of or towards the children.
- 21 Father says that mother has alienated the children from him. His examples include her refusing telephone contact for around a month when they separated; telling the children he was not paying enough money to her; wanting the court to remove his parental

responsibility; withholding her address and schools attended by the children; telling the children he was not allowed to enter the gated estate where she lived and that the police would be called if he did; taking A to the police station to reassure her she would not be made to visit her father; placing presents under the twins' pillows to encourage and create enthusiasm for their return after contact; and creating false memories in A's mind. In their statements, each parent sets out a detailed response to the other's allegations and they each maintain their recollection of events in their oral evidence.

## **THE EVIDENCE**

- 22 Although I heard the evidence of the parents first, I propose to give my assessment of the other witnesses and evidence before I deal with the parents' evidence.
- 23 The grandparents' oral evidence did not differ greatly from their written evidence. I also have evidence in the Cafcass report about the children's feelings and in assessments by Hampshire Children's Services about father's present household. I found it telling that the father, despite having had a long time to consider that evidence, is still unable to see any viewpoint other than his own and still lacks insight into the effects of his behaviour on the children or their mother. He minimises any incident, he considers himself a victim, and shows no understanding of the effects of his behaviour on the children. Mother was able to reflect on the mistakes she made and to see things from the children's perspective.
- 24 I found the evidence of the grandparents helpful in this case. The paternal grandfather has a strong relationship with the children and helped with the contact arrangements. He is supportive of mother now. He describes father, his son, as having a dictatorial attitude and using foul language at contact handovers towards mother and him. He says A was frightened of her father and would only come out of the house when he, the grandfather, was there. He described an occasion in early 2020 when father was angry because B did not want to go to Portsmouth and he shouted at mother that there was a court order and then he forcefully put B into the car. In cross-examination, grandfather said he had seen that. Father said there had not been any problems with C but grandfather recalled a car boot sale in about 2019 when father grabbed C in anger and then left in fury when she did not want to go to contact. The grandfather also dealt with the Xbox and I will come back to that.
- 25 It was clear from the evidence of both parents and grandfather that father did not want grandfather to be present at handovers. Father says that grandfather's presence began to create a sense of fear in the children with regard to him. He says that grandfather and mother were regularly shouting at him. I do not accept that. I saw no aggression in them. I saw a grandfather happy to help and who, at the time, got on well with his own son so handovers could have gone smoothly for the children.
- 26 They no longer get on. Father cross-examined grandfather about this. Grandfather described an occasion when father squared up to him and said, "You are not my father. You are nothing to me." There is no dispute that that happened but father said that exchange is irrelevant. The children, fortunately, had gone inside but that helps me to see who was the aggressor and I have to look at all the evidence I have about these parties. The children, particularly A, wanted their grandfather there at handovers. There was no need for father to

make an issue of it. He did though. He got cross and made an issue of it, then he says that is part of the alienation. I have no evidence that the children were aware of the opinion their grandfather now has of his son.

- 27 I did not find the evidence of the paternal grandmother of much assistance on the issues. She lives in Germany. She said she has referred to flight records and photographs to ensure her data is as accurate as possible but then she was vague on the dates. Father made great criticisms of grandfather for not remembering dates which was unfortunate in the circumstances. On her own evidence, paternal grandmother has not shielded the children from the difficulties between the adults. She made it plain that she dislikes gated communities. She said that, "One time, when we were taking the children back to their mother, B told us that he knew the code but was not allowed to tell us so [we] would not be able to get in." She thought this was a burden for the children. My view is that she could have reassured B that it did not matter or even praise him for being good in not giving out the code. As counsel for the guardian pointed out, it could be that the code for the gate should not be given out.
- 28 My concern from the point of view of the children's welfare was that grandmother knew that the arrangements were to collect the children from the gate but she asked to go into the mother's home on one occasion to use the toilet. She then made an issue of the fact that mother pointed out a café across the road. Having seen the photographs, that café may even have been nearer, although that is not the point. Separated parents often make arrangements for handovers at a gate, the end of the road or at a service station with CCTV, for example. If the parents handle it in a child sensitive way, it is not an issue. Grandmother has her own views about gated communities. She should not push them on to the children. Towards the end of her evidence, grandmother was more reflective and accepted that it was her perception about the gates. However, father and paternal grandmother made an issue of the gate in front of the children and then father said that having to collect the children from the gate created fear. He engineered a problem and then he tried to blame mother for it. That is not the only time he created a problem over the gate.
- 29 The paternal grandmother recalled seeing the children several times in Cambourne and that is just outside Cambridge. She referred to a fun snowball fight in 2017. That accords with mother's case that the children did enjoy contact in this area but not in Portsmouth. Grandmother's allegations about hostility at contact were not very specific. She gave the impression that words were had on all sides but she blamed mother and grandfather for it. She suggested that grandfather had referred to the children as his children, which I find unlikely. She also said that father had asked C why she thought she had tummy aches and C has replied, "Mummy said it's God's way of punishing me." I find that unlikely. Mother has not said anything like that to the children.
- 30 Grandmother resented being asked about her non-specific allegations. When counsel for the guardian asked about the occasion of the car boot sale pick up when she suggested A was held by her grandfather, she backtracked and did not say that A was prevented from going forwards. I do not think A was being prevented. I think grandmother was trying to support her son but the reality is she was not able to support his case when it came down to details rather than generalities. Regrettably, she saw nothing wrong in their failure to tell mother

about the incident where C had blood in her urine. Father is very critical of the mother for not providing him with information about the children yet his failure on that occasion led to C being distressed and the breakdown in contact; father did not mention that on his C100. The children stayed with him for the weekend at the start of December 2019. C went to the toilet and there was some blood in her urine. She expected her father to tell her mother. She was upset because her mother did not know what had happened. Father said he was going to tell the mother once he got back to Portsmouth. He said he did not want to talk about it in front of the children. I pause there to say that he now says C did not want him to. C told her mother who spoke to the GP and then the local authority became involved. That led to mother saying contact would be visiting contact and father made his application to the court. In my judgment, father or grandmother had several hours in which they could have messaged mother and they chose not to.

- 31 I also heard evidence from maternal grandmother. She was asked about the times when the parents were together and mother locked herself in the bathroom with A. Grandmother said it was more than once but no more than ten times. Even now, A does not lock the door when she goes into the bathroom. Of her recollection that father was rough with the children on occasions, she accepted that we all parent in different ways. She accepted that there was one occasion when A had overheard them disparaging father. She regretted it, as did mother. I found her measured, willing to see other points of view, and accept where mistakes had been made. I do not think she was exaggerating. Father thinks a lot has been made of a few incidents but grandmother rightly said that what happens to children can be cumulative. He makes a lot of one mistake by mother but thinks that his cumulative mistakes should be ignored.
- 32 Of the time when A was scared and did not want to talk to her father after a school play a couple of years ago, grandmother said A said to him, "Get your hands off me." He said that she should have tried to make A talk to him. Grandmother said it would have been difficult to try and force her in front of people. I agree. Father does not seem able to have a sensitive approach to the children and then he blames others.
- 33 Mother, father, and grandfather have all given evidence about the Xbox. It is an issue for B. B told the Cafcass officer: "Dad gave me an Xbox but it is in Portsmouth. He said it is mine but I have to go to Portsmouth to use it." Father said that his mother gave it to him for him and the children and stipulated that it should be kept at his house. She did not say that in her statement and she did not give evidence about it. She brought presents to court for the children and I find it hard to believe she would say that. A told the Cafcass officer that dad told them they could only have birthday presents this year (that was 2020), if they saw him in person. B said daddy had said, "If you want your presents, come over to Portsmouth."
- 34 When C was seen by the Cafcass officer for her second report in July 2021, she said contact was okay at the contact centre but felt it was not actually like dad, "He was not acting normal. He was acting all nice." She said she wants dad to stop saying everything is better at his place and, "If you come, I'll give you an iPad and I'll play with you." She does not like the phone calls because, "Dad doesn't listen. He annoys us and once he called me dumb, basically."



- 35 Father has several games consoles and he told the court that he also bought a different one for the children so this is not a financial issue. The plain fact is he will not let B have the Xbox and he would only give the children their Christmas presents if they went to Portsmouth. Mother said B struggles with why he could not just borrow the Xbox to play on. Father sees nothing wrong with his position and is incapable of seeing that if he listens to how his children feel and acts on it, they may have a better view of him. He relies on the positive aspects of the summary from the contact centre whilst ignoring the rest.
- 36 Father blames the mother for the children's views but the children were seen individually at school and were able to explain the reasons for their feelings about contact with their father. A remembers that usually when her parents had a fight: "My dad would be shouting at mum. He would shout at her most of the time." She said she remembers he smacked B and once he flicked B's ear and B said it hurt him. She also remembers: "Once, when I was in the car, he started shouting at me and kept on shouting at me."
- 37 She indicated that when her family was unhappy, it was usually because of something her father did, usually because he was shouting. Mum was crying because dad was shouting at her and she was trying to comfort mum. B and C were trying to stop dad shouting, saying, "Please stop" and pulling him a tiny bit. A said her mother never shouts at them, never shouts at all, "The opposite of my dad." The incident that A was referring to was an incident in the car. That incident is not in dispute. Father just cannot understand how she felt as a child.
- 38 Moving on to D28, B said about his father: "I still want to see him a little bit but dad should live in Cambridge and chill." B said he would like to see dad one day each month in Cambridge. He does not want to see dad at Christmas because he wants to spend his Christmas with mum for once. In relation to his dad flicking his ear, he said: "Dad flicked my ear and pulled my hair, which was very short. It hurt. Dad shouts a lot. He gets angry very quickly. I don't like him that much. He is annoying, poking his nose in, and asking too many questions." When father gave evidence, he said B was being unruly and getting into a tizzy, so he leant round and tapped his leg. There was another occasion when he flicked B's ear. He thinks this has been overplayed but it affected B and he raised it at school.
- 39 B said he never wants to go and see dad. It is a long journey and too far to go to his house: "He says we have to go and see him and daddy said, 'If you want your presents, come over to Portsmouth'." Father accepts that he flicked B's ear and he smacked him in the car, but he cannot understand how B felt. He thinks A should not have known about that but children talk to each other. He suggested that mother has created false memories in A's mind because A was not present. I do not accept that.
- 40 C had said she did not want to go in the car to her dad's house. She preferred the contact centre. Contact took place there fortnightly from December 2020 to April 2021. This is not supervised contact and so the observations are not wide-ranging but they were positive. In the overview from LD, she says that father was reported consistently to meet the children's needs during contact. For example, "he planned structured activities, stimulation, provided appropriate levels of supervision, enforced appropriate boundaries of behaviour, and

resolved sibling rivalry and excitement. He has been observed to demonstrate appropriate emotional warmth, share his times equally between the children, and provide an opportunity for the children to express themselves. Conversations overheard have always been appropriate. The children consistently report having enjoyed time with their father.” As C herself observed, father was able to behave appropriately in the confines of the contact centre. It is a great shame he was not able to do it the rest of the time. It may be that the guardian will consider that when he looks at the type of contact which is in the children’s interests.

- 41 Father chose to move to Portsmouth and says mother created psychological obstacles to the children visiting him such as them complaining about the journey. It was his choice to put a distance between him and the children. He could not see that for these young children it was a long journey and they did not enjoy it. Doing that journey every other weekend is different to the odd family day out to the seaside with both parents in the car to look after the children.
- 42 In addition to the Cafcass reports, I have assessments by Hampshire County Council from 2 June 2021 and 8 April 2022. In the first assessment, one of the children said that mum’s new boyfriend (that is father in these proceedings) is mean to him. Another child said he was a nice guy. He said his mum had told him not to talk about what is going on at home at school. He said that he would like his mum and [father] in this case to get along better. When they argue, they shout a lot. He explained that [father] tells his mother to shut up and his mum asks [father] to leave her alone and does not. The children’s mother said that she and [father] have arguments but that was her issue. Those comments had a very familiar ring to them.
- 43 There was a second assessment following a referral from one of the children’s schools and this is the report that came from the teacher. The child said his mum and [father] “were arguing last night and threw the PlayStation”. The child said something about the police. The teacher asked if he had told his teacher or another adult in school about this and she clearly heard the child say, “No. They would be so angry. I’m scared.”
- 44 When the child saw the social worker, he referred to a bit of an argument. His mother seemed to be saying it was her fault. [Father] said it was a once in a blue moon argument but the social worker noted that verbal conflict and arguments had arisen on a number of occasions previously. Father in his oral evidence minimised those incidents and he deflected blame on to his current partner, or on to the mother in these proceedings and that is a pattern of his behaviour. Mother in these proceedings said in one of her statements that she thought it was because of her that father shouted at the children, and in her oral evidence she said that the way the father’s current partner played things down was familiar because that is what she did too. In my judgment, responsibility for the way he treats people lies with father. Two partners and their children have all described similar experiences.

### **THE PARENTS’ EVIDENCE**

- 45 In addition to their statements, the parents have provided copies of messages between them, mostly on WhatsApp. In June 2019, and this is from the messages father provided to the

court to support his case, he was being demanding about the weekends he wanted to have the children and he would not listen to the mother's reasonable explanations that she already had work and social events planned. Had he been patient, it could have all been sorted out. For more than two years, staying contact had taken place. It was usually on father's terms. In February 2019, mother had suggested they stay in Cambridge because of the weather. Father refused. The father suggests he could not keep the children entertained for a day in Cambridge, but he sometimes returned them even after just a few hours. Grandfather had offered his flat for father to stay in with the children and he refused. On more than one occasion, father decided to return the children home early and expected mother to leave work and be there. He did that even from Portsmouth; that is evidenced in the messages. It was his choice to cut down the time the children spent with him. Mother is right that the father was controlling and dictated when he would see the children.

- 46 I move on to the oral evidence. In her oral evidence, I put father's questions to mother. She said that she did not make a threat that he would never see the children if he did not do what she demanded financially. In fact, I know from their evidence that there was an order for maintenance pending suit of about £3,800 a month. Father only paid £680 and mother did not stop the contact. She was asked about the time just after the parents separated. She said she had asked father not to see the children until they had worked out what they were going to say. She suggested counselling. He started seeing them three weeks or so after he left and she did not think it was as long as a month.
- 47 She said it was a very difficult time. She did not know why he had left. She did not know he was having an affair and she did not know what was going to happen. She did not know where he was. She thought it was unfair on the children to be put in the middle of that. She wanted them to work out what they were going to say to the children. She asked father to sit down with her or go to counselling. She tried to give the children as easy a time as possible. They were due to start school. It was plainly very bad timing.
- 48 She agrees that she said contact had to be under the supervision of grandfather at first. The father saw the children every Saturday. Then he did not want his dad there so he took them without grandfather. It went to overnight and then every weekend when he was living locally in Cambourne. He had a large house with his new partner and her children. Mother told me that the children liked seeing their dad and they enjoyed the day visits. I have no evidence that she spent those first few weeks putting the children off seeing their father.
- 49 It became a problem when it was going to the new house. A went out with her dad for the day. She did not want to go to his house. Mother asked him not to introduce the children to his new partner, it had only been a matter of weeks, and, indeed, we now know that the relationship did not last. He told A she had to go to his house. He introduced her to his new partner and sent her off to play with the children. A found it difficult to accept that he had a new partner and family and she did not want to go there. She did continue though for some periods of time. She wanted grandfather there but father said absolutely not. Then when the twins started staying the night, A absolutely refused to go.
- 50 Moving on to the handovers at car boot sales, she said the children wanted their grandfather there. So she suggested that as a meeting place because grandfather would be there and it

could be relaxed. She was quite measured in not blaming father for making things difficult but A wanted a third-party present and father said no. A, not surprisingly, felt he did not listen to her. In 2019, she said the children stayed for nine days with their dad in Portsmouth and they found it difficult. She referred to the handovers when she was almost having to manhandle the children to the gate and father would grab them and put them in the car. It was around that time that she said they had to step back and take the process slowly. She thought if they went for the day and had a fantastic time, they could build it up again. She did not stop contact. I put to her father's position that she was dictating all of the arrangements. She said she did not feel like that.

- 51 Of the day visits in Cambridge where father returned the children early, there were four or five of them. The majority of time she was at home and so she did not say no. There were two occasions though when she was working and she could not just walk out of work and she was not in a position to turn down work. He refused to keep them and, in the end, she had to cancel work and come home. I have seen the messages. Instead of having a good time with the children, father was bringing them back early to inconvenience the mother. One time, the children were upset and worried because they had got back before her and they said daddy had said she could not be bothered and would not be there.
- 52 She agrees that A last saw her father to spend time with him on her birthday in 2018 but she has seen him at handovers. Father made a threat to call the police and A was upset and scared. His position is that his threat to call the police was justified. I disagree. Mother said he should not have involved A and I agree. She was asked about the fact that some of these issues had not been raised before and she said she had looked back and seen patterns of behaviour. She had not made up the incident about A getting a glass of water. She accepts that she did not mention the manhandling on the C1A. Looking back though, he did manhandle the children. It is her perspective that has changed. She is more able to see what was right and to say what is okay and what is not. That the children said it independently about their father has made her stronger.
- 53 When the manhandling of the children into the car was put to father, he referred to them squirming or wriggling and there were a couple of times when they did not want to go. So he carefully put them into a car. I do not think he would have done it carefully. I have seen his reaction when he does not like things. He said it was rubbish that there was an occasion at the car boot sale when the children did not want to go but he then accepted that there were occasions when one of the twins did not want to go.
- 54 Mother fully accepted that there was one conversation with her mother that A overheard about how she was going to cope. She said it was not bad mouthing her father and she knows it is damaging for children to hear conversations. A told her father what she overheard, A became upset because her dad went on and on about it. A was scared that he had made her say things. She said something about the cost of things. She said she had heard overheard her mum's remark about how they would manage and then he questioned her over and over again. She does not agree with his point that it is normal to find out as much as you can and nor do I. As she said:

“Hounding a child until they are hysterically crying is wrong and then he repeated it to her siblings. So he made it ten times worse.”

- 55 Mother said she tried very hard not to show fear in front of father and she does not think that her feelings are why A did not want to see him. A has seen as she gets older things that are scary and she remembers how she is treated. In relation to the twins, she said he would often grab them and manhandle them into the car. She thinks the children did enjoy the contact some of the time and found it fun. She accepts they had enjoyable times in Portsmouth but the journey was affecting them. She said she does not think the children heard the time that she asked him to leave or she would call the police. They had gone into the house. Of course, he should not have been inside the gate in any event.
- 56 Father says that the children looked forward to going back to his house because they got presents. Both parents, it seemed to me, tried to encourage the children with gifts to go to contact but for father it seems to have backfired on him. He thinks that A was getting quality time with her mother when the twins were with him and that seems to be a criticism. I do not know why. He should have been spending quality time with the twins.
- 57 The twins wanted grandfather present. Father kept saying he could not be and that angered him. I really cannot see why he should get angry. There was absolutely no need. It was put to her that she told the children about their father not paying enough. She said not. The children noticed that they did not have things that the father did and they asked about them. She said, the children had gone from being very privileged to not even having a television. Children are not silly. They can see a difference in people’s households.
- 58 Mother was asked why she does not think father can meet the children’s needs outside of a supervised setting and she says it is because that they do not know when he is going to get angry or say that they have done something wrong. She thinks they have come to harm in his care and they have talked about incidents more than a year later when it still affects them. There was an occasion when contact came to an end at the contact centre. She criticised father and the contact centre because B had a broken arm and she should not have been out playing. I think she rather overreacted. B did not come to any harm on that occasion. She also lost faith in the contact centre because of a time that father had come out to talk to her and she was concerned that they were not acting on the safeguarding.
- 59 The parental alienation allegations were put to her and she said that she and father had different opinions of what is acceptable behaviour and that is the sticking point. She does not think A’s hostility comes from her. It comes from A’s own views and she said this is not just about two incidents. It is about how he views parenting and that things have to be his way, and for B these are not minor incidents. She thinks the children in unsupervised contact were frightened of his anger.
- 60 When she was cross-examined on behalf of the guardian, mother said that if somebody around B is angry, he will flinch even now and she has to reassure him. There was an occasion when father came out to talk to her but she felt that the contact centre were dismissive of her concerns. Although I think she slightly overreacted, one has to bear in mind the history. She said that she put forward other people who were happy to supervise

contact and she had looked at another contact centre as well. It seems to me that she was not trying to stop contact. Towards the end of her evidence, she said that her concern is that the bad outweighs the good to such an extent that she thinks the children should not even see father in a contact centre. I am not sure that she is right about that but I can understand why she might think it.

- 61 When father gave evidence, as he represents himself I gave him some latitude to deal with matters since he made his statement and to respond to the evidence. He was clear that he refuted maternal grandmother's evidence and he did not accept the evidence of his father either. He said that all he wanted to do was see his children. He did not want to enter into a mudslinging match and now he thinks that the break up could have been handled better by both of them but he blamed mother for it being more acrimonious. I did not find her acrimonious and I am not sure what else she could have done to make it painless for the children. He embarked on the *mudslinging match*.
- 62 He does not see that his decision to separate was badly handled by him. He left on 19 August to stay with a friend in Portsmouth. Then he met his new partner at an unofficial school reunion. It snowballed, he said. He did not want to say when they started living together but, eventually, we narrowed it down to late August/early September, i.e. very quickly. They then rented a house together in this area in Cambourne at the end of September. They separated in March or April and she moved back to Portsmouth.
- 63 Father said that he then moved to Portsmouth in the May partly to see if he could repair that relationship and partly because he never really liked Cambridge anyway. He enjoyed being in Portsmouth. He did not want to live in Cambridge. He said he was totally single so he could go anywhere, yet he chose to move a long way from his children. He said he was willing to travel to see the children. That is not strictly accurate. He was willing to travel to collect the children but he was insistent that they would then make the two and a half hours or so journey on a Friday evening to go and stay there. He moved in with his current partner in February 2020.
- 64 He criticises mother for going to court over the finances yet on his own evidence, he was only going to pay the bills until the end of 2017 and he thought that was generous. She went to court. A maintenance pending suit was ordered for almost £4,000 and he continued to pay £680 per month. He then wanted to take away the car which she used. He claimed that it needed repairs but he was using it. She had to go to court to get an order for him to return the car for her use. Despite all of that, she never stopped contact.
- 65 In 2019, he says he was borrowing his then partner's car at alternate weekends. He blames the mother for things having gone horribly, in his words. He wanted to go to court just to formalise the contact, yet he put all the allegations in his application form and he said in retrospect that maybe he should have metered down what he put on the form. He kept saying that he was being stopped from seeing the children. The reality is that he was not. Bringing matters up-to-date, the father said that even now, mother cannot accept that he can look after the children and she is so entrenched. Pots and kettles spring to mind.

- 66 Of his own father, father said that they always had a good relationship and he does not know what changed but the relationship deteriorated. Father could not see that from the children's point of view, his father was a suitable person to come to contact; his new partner was not.
- 67 He was asked about the time when he went into the gate at the property and he said at one time, he had been waiting for about fifteen minutes. Then he said that he had just parked up and gone through the gate. Those cannot both be accurate. Someone else went in and he went in too and my view is that he seized that opportunity knowing he was not meant to go in. He then blames mother for getting cross with him for doing something he knew he was not meant to be doing. He created the situation, he upset the children. He presented a picture of jolly journeys to and from Portsmouth and then he said that he had had to go in because the children were cold and bored having been in the car for two and a half hours.
- 68 There was an occasion when he had called up the mother to deal with the children because they were being unruly and she told him to deal with it as the children were in his care. He thinks that she was wrong. I do not agree. The children were in his care. He could not cope with them and he wanted to pass on to her the responsibility for disciplining when he could not manage the children.
- 69 In relation to the Hampshire Children's Services report, he said that the arguments with him and his partner were because of these proceedings. He did accept, when pressed, that that was not an excuse.
- 70 He was asked in cross-examination about A and her mother having to shut themselves in the bathroom and he says that is not true. The words that A had said to the Cafcass officer were put to him and he simply said that he and mother did not argue. I cannot accept that. A recalls him shouting and her mum crying. He said that A never had to console her mother. That is not how A remembered it.
- 71 He did accept there was an incident in the car. A remembers him shouting at her. He said he did not shout. He said he was insistent that she told him what she had overheard. He accepts that he asked her several times, he said, in a stern manner. There is not much between him and A. He accepted eventually it would have been upsetting for A. She said something, he would not let it go. A is right, he kept shouting at her. Once he gets started, he does not stop and the times where mother and A went into the bathroom was because that was her escape.
- 72 He agreed that when they separated, it was not discussed with the children. He said he did not want to leave with the children there and so he left when they were out so mother had to pick up the pieces. He said it was about three to four weeks later that he saw the children. He said it was a difficult time but the children came bounding in and were pleased to see him. That suggests that mother had not spent those three weeks putting the children off him.
- 73 He said he did not insist A meet his new family straight away. It certainly was not very long afterwards. He took the children to the home that he was sharing and then he sent A up to play with the children even though that was not what A wanted. He said he felt it was time to introduce her. The children were upset and he was putting pressure on A. This is nothing

to do with mother. It was to do with what he wanted. With 2020 hindsight, he accepted he could have done it a better way. He said it is irrelevant now but it is not irrelevant for A. He still maintains that mother is alienating the children from him and yet the rift with A was solely caused by his actions. The children were pleased to see him when they first saw him. They did not see anything wrong with their paternal grandfather being present. They did not have a sense of fear but he created it. None of that was down to their mother. He forgets that A was an 8-year-old child and he thought her views should be disregarded. He has spent years wrongly blaming mother. He showed limited insight when he gave his evidence about how things could have been handled better but that insight did not last.

- 74 Asked about some of the chronology, father said the children spent Christmas 2017 with him and they had a good time. So that is not the mother preventing contact. He accepted that A started to pull away from him after the incident in the car in February 2018. He accepts she was upset but he thinks his actions were justified. He denies telling her that he would call the police but he said that he told mother that if he got a court order and she did not comply, the police would enforce it. I think he made that plain to A as well.
- 75 Moving on in time, in May 2018 he got a flat and moved to Portsmouth, that was what he wanted. It meant the children had a long journey. He says that the twins did not mind the journey but from what they have said, that is not right. He was seeing the children every other weekend and for parts of the holidays. There is no alienation there by their mother. There were obviously incidents in the car. A had told the Cafcass officer and the other children have also spoken about it.
- 76 He was asked about the occasions when he returned the children early and I have seen the messages about that. One of these, August 2019, was a weekend staying contact. On the Saturday, he said the children would be back early on the Sunday, about one-ish. Mother said she could not be home until five. He claimed he had to return the car he was borrowing. He repeated the same message a couple of hours later and then on the Sunday morning, he sent her a message to say that he would be returning the children even earlier. For someone who wanted to spend as much time with the children as possible, he was very keen to return them early, particularly, it seems to me, on occasions when he knew there would be a difficulty for their mother. On one occasion, the children had only been with him for two hours when he wanted to return them early and I cannot see any reason for that other than to disrupt mother.
- 77 I had a message at C77 in the bundle where father was sending mother messages saying “YOU are stopping me from seeing our children.” He accused her of ruining the children and stealing a parent away from them. It was not true but he was extremely unpleasant in these messages.
- 78 In February 2019, mother said the children would prefer to spend time with him in Cambridge. He just said “no,” but he accepted there were times when the children were reluctant to go to Portsmouth. He claimed mother was dictating the contact arrangements. She was not. She was making a suggestion to try and make it work.



79 Asked about the WhatsApp exchange in June 2019, he said that he wanted to swap the alternate weekends. Mother reminded him of the agreement they had made and that she had kept the weekends free. He said, “You are being unnecessarily cruel and inflexible.” He said he would go to court and said:

“I will happily tell the children that I cannot see them as their mother will not let me when I have access to a car.”

He wanted to involve the children in his views having criticised her for once having a conversation that A overheard. He tried to bully her into agreeing or he would tell the children and, in the end, she backed down and said she would try to change her work arrangements by the end of the year. It then emerged that grandfather had offered to lend him a car and so there was no need for any of this in any event. She gave in and, even then, he was not happy and he wanted things done his way. That is how mother and the children have experienced his behaviour.

80 Father was asked why he made the drug allegations in his application on the C100 and he said that was because mother was acting in a way he did not expect. I think what he did not expect was that she might stick up for herself. Father eventually did accept that the incident in the car had had a profound effect on B but then he thought B should have moved on. He was referred to the extracts I have read from the Cafcass report and he just thinks that the children are reflecting their mother’s views. I think their mother is reflecting the way the children feel and she was finally brave enough to say it. The children have all independently reported their views about father and not giving them their presents. In his evidence, he said he wanted to give them the presents personally.

81 Father accepted in cross-examination that the only time mother actually cancelled contact was 14 February at the contact centre last year when A was ill. He said that this year, he has asked the children for a Christmas list. A sent a list. B has not. C put one thing in there but he wants a complete list of everything she wants. C apparently wants a knitting machine. That seemed to be quite modest. I do not know why he cannot just give her the present she would like. If B has not given him a list, why not just give him some money and say, “Buy something nice” but he will only do things on his terms. There was some cross-examination about things he says mother has said about money but I reject that.

82 I was concerned by his attitude to the Hampshire Children’s Services’ reports because he gave excuses for the arguments and minimised the incidents. He suggested that it was the fault of either the mother of those children or the mother in this case and he took no responsibility for his own actions. Just as in these proceedings, the mother in those proceedings gets the blame for his anger.

83 When he was cross-examined for the guardian about his allegations of alienation, he said it was the stopping the contact in the first few weeks, saying it had to be supervised by the paternal grandfather but then he accepted that it was what A requested. He thought it was inexplicable that A did not want to stay overnight but it is very clear why she did not want to stay overnight. He agreed in retrospect that it was a sudden separation and it might have been a good idea to have an agreed narrative but he wanted to talk to them and see them. It

was all about what he wanted. He was asked again about the WhatsApp exchange. He went on at mother for three hours about what he wanted. It was not about seeing the children on a regular basis, he wanted to change the arrangements they had made.

- 84 He was asked again about A not wanting to go to his home and finally accepted that, in retrospect, he could have handled it better and he now accepts that A found it difficult. During cross-examination, he referred to having extra contact in March 2019 and the point not surprisingly put by counsel was that if mother was arranging extra contact, that did not look like alienation. It was put to father that he could have stayed in Cambridge and done activities. His reply is Portsmouth is where he lives and he was not going to be dictated to by mother. She was not dictating. She was trying to make contact work.
- 85 Towards the end of his evidence about C and B, father accepted that the separation and what happened may have affected them but he could not see that moving so far away made contact difficult and less enjoyable for the children. He could not see that the effects of his behaviour were cumulative. There are occasional moments where there seemed to be some insight and self-reflection in his evidence but by the time it came to submissions, those had gone. I have set out the parents' evidence in detail, especially father's. It shows how wrong he is in his conclusions about how the present situation has come about even on his own recollection. He just cannot see it.

### **ANALYSIS AND MY FINDINGS**

- 86 I have already referred to some of the flaws in the father's case. I do not find that mother has alienated the children from him. In the first few weeks of the separation, she shielded the children from her emotions after father left. She told the children it was someone else on the phone when she was upset so they would not know the reason was father. All she wanted to do was work out how the parents would handle the situation. Within a few weeks, the children were seeing their father and both parents agree the children were pleased to see him. That only changed when he forced them to stay with his new partner and her children. He had moved on and thought everyone else should too.
- 87 There was one occasion when A overheard a conversation about how mother was going to cope financially. Mother and grandmother regret it. That was not alienation. Father's treatment of A about it was the problem. As grandmother rightly said, the effects on the children are cumulative and father just bullied A.
- 88 Mother was finding it difficult to make arrangements with father and at one hearing she asked for his parental responsibility for A to be removed. Having seen and heard her evidence, I find that was frustration about not being able to agree arrangements with father rather than an attempt to exclude him from the children's lives. She mistakenly thought that she needed father's parental responsibility to be removed so she could take the children abroad. In his evidence, father said there was a time when he would not agree to a holiday. He said it was because he wanted as much information as possible about the trip. My view is he just wanted to know what mother and the children were doing.

- 89 Mother accepted she did take A for a choir audition at the School, Ely and applied for a place there without consulting father. That was because A did not want him to know. I can understand A's position because once he was told of the application, father used it to try to pressurise A into talking to him. Father has parental responsibility and there were no restrictions placed on his exercise of it. He should have been kept informed and consulted. Having seen his attitude and how he exercised parental responsibility though, I do not find that the mother was attempting to alienate father. She was trying to protect herself and A from what she knew would happen.
- 90 In relation to the time that mother took A to the police, she said it was for them to reassure A that they would not take her away and force her to see her dad. I accept her evidence. In my judgment, it would have been better for her to speak to A to reassure her. This was not an attempt at alienation though. This was after A had refused to go to contact. This was mother dealing in perhaps not the best way with a fear created in A by her father, as he had said he would go to the police.
- 91 I have already said that mother did not create false memories in A. These children repeatedly talk to each other. Father repeatedly offered inducements to the children to go to Portsmouth but he criticises mother for saying the children would get a little present when they got back. This was an encouragement to go, not an attempt to alienate their father. He says the twins were missing out on the things that mother and A did when they were with him. It was up to him to give the twins a good time, in my view. I cannot see why A was not allowed to have a nice time while they were away.
- 92 I have already said that father created issues around the gate and blamed mother. I accept mother's evidence that he made comments such as he she has not bothered or that she does not care when he deliberately got the children back early and was there before her. He was the one causing the problems. His allegations of parental alienation are not made out.
- 93 I find the chronology of contact helpful in deciding on the allegations each parent makes. The children had regular contact with their father, including staying contact, from a few weeks after the parents' separation in August 2017. They were happy to go and enjoyed it until father's behaviour put them off. On the evidence, it is clear that A refused to go in early 2018 because of the way her father behaved. The twins contact carried on and included alternate weekends and holiday stays. In August 2019, they stayed for nine nights.
- 94 During his evidence, father accepted there had been extra contact around the children's birthday. In June 2019, father wanted to change the weekends. Mother could not because of her work but she said she would swap within a couple of months. She did not seek their return early from weekends and days out. That was father's choice.
- 95 The incident in December in which C was upset because her father did not tell her mother about the blood in her urine led mother to pause staying contact. Father made his application which included the allegations that I have referred to. He did not mention the upset caused by him to C. His claim of alienation by the mother is not borne out by the facts. Hindsight is a wonderful thing but, in my judgment, if he had made a measured application or gone to mediation, the staying contact would probably have resumed quite quickly.

Mother tended to give into him. The WhatsApp messages show that. He thought his confrontational C100 would make her give in.

- 96 In relation to mother's allegations, it will be apparent that I find father did frequently chastise the children, in particular B, in an inappropriate manner, including the ear flicking, the slap in the car, excessive shouting, and manhandling. Most of the incidents were accepted by father although he minimised them. B was frightened by the ear flicking incident. He talked about it at school. In October 2019, he said that his father smacked him, pulled his hair, flicked his ears, and gets angry. He did not want to go to his father's house again. Mother suggested day contact. Father ignored B's feelings and mother gave in.
- 97 Father dictated when he saw the children and that is clear from the messages as well as the parents' evidence. He did get angry when mother stopped overnight contact and when A stopped going. He accepts he said he would call the police. He thinks that was a suitable use of police time. There is no dispute that he did not tell mother about the blood in C's urine. His failure to do that was deliberate and thoughtless. C was upset.
- 98 In the WhatsApp exchange of 18 June 2019, the father was coercive and controlling. He went on at her for three hours. He does not stop until he gets his own way. The harm to the children comes from the fact that he has the same approach to them, to his new partner, and to her children. B does not back down and C is compliant so they suffer emotional harm. Their father sees nothing wrong in his behaviour and is unlikely to change. Mother wanting to stop contact now needs to be considered against that.
- 99 Father's treatment of A has to be seen in context. There is nothing wrong with asking a child to get a glass of water but it is his reaction when people do not do what he wants, him losing his temper so mother has to walk on eggshells or lock herself and A in the bathroom. That is what causes harm to the children and their mother and they need to be safeguarded from the effects of that.
- 100 Father has intimidated the children. They witness the verbal abuse of their mother at handovers. They went to Portsmouth to avoid him getting angry. The distress he caused A by his repeated demands for details was abusive. He said it was just while they were driving along Fen Causeway. For A, that was a long time to be subject to his anger. Threatening to call the police to force her to go to contact was abusive and intimidatory. He did get angry if his offer of presents to A did not work.
- 101 In relation to grabbing the children and pushing them in the car when they were upset, the father says that they were fine once they got going but his approach to contact and behaviour towards their mother caused them to be upset. In my judgment, mother's allegations are made out. B suffered some physical harm. All of the children have suffered emotional harm as a result of his treatment of them and their mother in and around contact. They witnessed that. A also suffered emotional harm from his treatment of their mother when she was younger. The children have all described how they felt.
- 102 The children's guardian has been present for most of this hearing and there will be a transcript of this judgment. He has seen the father's lack of insight and failure to see that his

approach to contact was not child focused. Like me, I am sure the guardian would have been concerned that mother cannot see any benefit from direct contact but that must be seen in the context of the way father treats people and his seeming inability to change. I would like the guardian to meet with the children and to assist the court on whether contact could be safely managed so that the children can have a relationship with their father through direct contact and not suffer further harm. If third parties such as grandfather could support the children, then father should not reject that as he did in the past.

103 Contact is in the children's interests if it can be managed safely. Father has been signposted to courses to help him gain insight and address his behaviour and I would urge him to take them. I know the guardian will consider the children's wishes and feelings but their emotional needs and their father's ability to meet them and the risk of harm are also important in this case. I would be grateful for assistance from the counsel on how much time the guardian needs. In the interim, the indirect contact will continue.

104 That concludes my judgment.

---