



Neutral Citation Number: [2023] EWFC 103

Case No: LS20P00806

IN THE FAMILY COURT AT LEEDS

Leeds Family Court,
Westgate, Leeds, LS1 3BE

Date: 18 May 2023

Before:

HHJ SHELTON

Between:

**AB
- and -
CD**

Applicant

Respondent

The Applicant appeared in person

Mr Rhys Taylor appeared pro-bono via the Advocate Scheme for the Respondent

Hearing date: 10 February 2023

Approved Judgment

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HHJ SHELTON

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.

HHJ Shelton:

Introduction

1. This is my third judgment in these proceedings in the last two years.
2. For convenience I shall refer, as before, to the parties as the husband and the wife notwithstanding they are long since divorced
3. At the centre of the case is XFR, the parties' daughter, who is aged 20'
4. XFR was born severely disabled. She will be dependent on others for her care for the rest of her life. In my judgment dated 5th January 2022 I quoted from XFR's Education, Health and Care Plan dated 8th September 2021 in which her disabilities were described as follows:

“...Significant learning difficulties, non-verbal speech and language difficulties, short stature, dysplastic hips, hip dysplasia of the right side, a planovaigus right foot and hip, skeleton abnormality, recurrent UTIs and dysfunctional voiding, previous atypical haemolytic uraemic syndrome, hypothyroidism, vitiligo, feeding difficulties. All areas of her learning are affected and she has complex medical issues.”
5. The agreed medical evidence is that XFR's disabilities arise from a chromosome imbalance. The imbalance will remain static throughout her lifetime. It is not predicted that XFR will improve significantly in any of these areas over time.
6. XFR has always lived with and been cared for by the wife, although since September she has attended a Specialist College in the North of England. The college provides a five-day, four-night placement from Monday morning to Friday afternoon during school term time. XFR lives with the wife at weekends and during the holidays. The placement at the College will continue for three academic years.
7. The case is about the same two issues as set out in my earlier two judgments:
 - (i) What is the quantum and duration of the periodical payments the husband should pay for XFR?
 - (ii) Should the nominal joint lives periodical payments order made in favour of the wife be discharged?

Legal Framework

8. This is set out in my earlier judgments, which I need only repeat in abbreviated form here
9. The court's powers to make a periodical payments order are preserved when a child reaches 19 where 'there are special circumstances which justify the making of an order': s29(3)(b) Matrimonial Causes Act 1973

10. Special circumstances include a child's disabilities: *C v F (Disabled Child: Maintenance Orders) [1998] 2 FLR 1*.
11. I must have regard to the matters set out in s25(3)(a)-(e) of the MCA 1973. In *C v F* (supra) the court approved a two-stage process: (i) obtaining all the facts and figure of income, expenditure, needs etc; and (ii) then taking all the relevant figures into account in exercising my discretion in the broadest sense
12. While I may have regard to the likely figure that any assessment by the Child Maintenance Service (CMS) may make, I am not bound by any such figure
13. I must apply s31 MCA 1973 and the principles in *SS v NS [2015] 2 FLR 1124* when considering whether to discharge the periodical payments order in favour of the wife. There is a need for an 'evidence based' approach when considering whether the wife would be able to adjust without undue hardship to the termination of periodical payments.
14. It is important to add that spousal maintenance is treated as unearned income in any assessment of Universal Credit and reduces any payment on a pound for pound basis.

Background

15. This is set out in my earlier judgments. However, I summarise it again here for the convenience of any reader of this judgment.
16. The husband is now 51, the wife, 46.
17. They met in 1997, began to cohabit in 1998, became engaged in February 1999 and married in June 2000.
18. XFR is the only child of the family. She was born in September 2000. The extent of her disabilities was not established at birth.
19. In October 2007, the parties separated. Divorce and financial remedy proceedings followed.
20. On 9th June 2009, Ryder J (as he then was) made an order that XFR live with the wife and gave the wife permission to remove XFR permanently from the jurisdiction to live abroad. It was ordered that XFR spend half the school holidays with the husband. Both the wife's parents were then living abroad.
21. On 20th August 2008 agreement was reached as to the split of capital on divorce whereby the wife received £160,000. A contested hearing took place as to periodical payments. An order was made by the deputy district judge that the husband pay global periodical payments of £1,100 pcm: £400 to the wife on a joint lives' basis; £400 to the wife for the benefit of XFR until she attained the age of 17 or complete full-time secondary education, whichever be the later; and £300 towards XFR's school fees. On appeal to Holman J on 3rd September 2009, the global sum was increased to £1,600 pcm on the same terms as before: the wife and XFR's awards were increased to £600 pcm, the school fees to £400 pcm.

22. Thereafter, the wife and XFR moved to live abroad. Two years later they returned to live in the United Kingdom.
23. On 14th March 2012, Pauffley J varied the terms of Holman's order of 3rd September 2009: the husband was to continue to pay periodical payment in the global sum of £1,600 pcm, but apportioned the payments £1,500 to XFR and £100 to the wife. A recital to that order also noted that there may be circumstances, in light of XFR's disabilities, whereby it would be appropriate for the payments to XFR to continue beyond her nineteenth birthday.
24. In 2015/16, the wife wrote to the husband and trustees of his family trust requesting additional financial assistance to meet XFR's living costs. That request was declined. The wife brought a claim under the Matrimonial Causes Act 1973.
25. The wife's claim was compromised. On 12th July 2017, Sir Mark Hedley approved the settlement of £275,000 to be placed in trust for XFR to assist in the purchase of a more suitable home in which she and the wife could live, and for any adaptations to be made to it. Periodical payments for XFR were varied by consent to continue in the sum of £1 pa after her nineteenth birthday. The judge's order exhorts the parties to mediate over periodical payments for XFR thereafter. For reasons I need not enter into here, that never happened and, in my judgment, is unlikely ever to happen.
26. Later in 2017 the wife sold her then home and moved to her present home purchased under the terms of the trust.
27. The husband issued these proceedings for a downward variation of Pauffley J's order as long ago as 21st May 2020. He did so at a time when he had been furloughed owing to the Covid 19 pandemic.
28. On 2nd October 2020, District Judge Troy reduced the global periodical payments from £1,600 pcm to £1,250 pcm: £1,150 pcm to XFR, £100 pcm to the wife. Arrears of £700 were remitted.
29. On 2nd January 2021, the husband became seriously unwell, following which in July 2021 he received £100,000 by way of a critical illness payment. Fortunately, the husband made a good recovery. He was able to return to full-time work in early 2022.
30. On 21st July 2021, District Judge Troy varied the global order downwards to £1,000 pcm to take effect from September 2021. The case was then listed before me.

My Previous Orders

31. On 13th December 2021, I made an order that from 15th December 2021 the husband pay the wife interim maintenance in the sum of £1,150 pcm (£1,149 child maintenance, £1 spousal maintenance). I made interim orders at that stage and listed the case for hearing in July 2022 to await further and better information as to XFR's future placement at a specialist college or elsewhere; whether the mother was able to take part time employment; and what the effect of either development would have on the Universal Credit payable to both. I made directions as to the further information to be obtained and filed.

32. On 12th August 2022, following a two day hearing, I made an order increasing the interim order to £1,400 pcm (£1,399 child maintenance, £1 spousal maintenance). Such were the uncertainties over XFR and the wife's income position once XFR was to start at college that I again made an interim order. I accepted Mr Taylor's submission that to make a final decision at that stage risked being unfair to one or both parties. I listed the case to a further case management hearing on 6th January 2023, and a further hearing was set aside to hear the case in February 2023, if required. Again, updating information was directed to be obtained and filed, particularly that relating to the benefits payable to XFR and the wife after XFR had started at college.
33. Before 6th January 2023, proceedings were issued in the Court of Protection concerning surgery to XFR's foot. The wife is XFR's litigation friend in those proceedings. The proceedings are continuing.
34. On 6th January 2023, Mr Taylor raised whether any further hearing in February 2023 should be adjourned pending the outcome of the Court of Protection proceedings, leaving the status quo in place meanwhile. While such a course had its attractions, the husband opposed any further delay and sought I make a final order now. I accepted the husband's argument and decided to hear the case on 9th February 2023 on the available evidence.

The Hearing on 9th February 2023

35. The husband appeared in person, just as he did on 6th January 2023. In July and August 2022 he was represented by counsel on a direct access basis.
36. The wife was again represented by Mr Taylor, counsel, who appeared pro-bono via the Advocate Scheme.
37. The hearing was conducted remotely by agreement of the parties.
38. Ms Morgan of the Transparency Project attended the hearing pursuant to FPR 2010, r27.11(2)(ff), just as she did the pre-hearing review on 6th January 2023 and all the hearings in 2022.
39. The ground rules made in 2021 pursuant to FPR 2010, Part 3A were repeated by agreement at this hearing: the husband submitted his questions of the wife to me in writing, which I asked on his behalf.
40. I managed to hear all the evidence on 9th February 2023, including that of the wife's GP.
41. Closing written submissions were ordered to be filed by 26th February 2023.
42. The order of 12th August 2022 was to continue meanwhile.
43. The delay in my sending out this judgment in draft arises from my being away for most of March 2023.

The Evidence

44. I shall deal with the evidence, and my findings as to the parties' financial circumstances, in the order in which it was given, starting with the husband. My findings are made on a balance of probabilities.

The Husband

45. The husband's living arrangements remain unchanged from my earlier judgments. He and his second wife, together with their two young children continue to live in a substantial Grade II listed property, with swimming pool and tennis court, in the south-east of England. The property is owned by a trust on the husband's side of the family. I have not seen any trust deed setting out the terms of the husband's occupation of the property. Previously the husband has told me that he is required to maintain and improve the property 'as part of the agreement allowing us to live there'. Needless to say, the property is expensive to run and maintain. Its outgoings are commensurate with its size and scale.
46. The husband works full-time as a pilot.
47. He earns £9,377 pcm gross, which equates to £112,524 pa gross, plus an annual bonus.
48. The husband's net income comes out at £4,961 pcm. But this figure disregards discretionary savings of £700 pcm, made up of BAYE £150, Aegon ISA £50, SAYE21 £150 and SAYE £350. If those are added to the £4,961 pcm the figure increases (before any adjustment for tax) to £5,661 pcm. The husband also makes a 10% pension of £937 pcm, which he is unable to reduce without being taxed.
49. In addition, the husband receives a discretionary bonus, which at least thus far has always been paid, even in a loss-making year. The amount is variable. The last bonus received was £3,936, although in some years it has been as much as £12,000.
50. I agree that the husband's net income, adjusted to remove discretionary savings but leaving pension contributions at a reasonable level, is in the region of £5,500 pcm net, plus bonus of whatever amount.
51. Although the husband has made a good recovery from his health condition on 2nd January 2021, he wishes to move to working part-time and retire at 60. He cannot work beyond 65. The details of what he proposes and its effect on his income are vague. He relies on his GP's letter, dated 22nd December 2022, in which the doctor writes:
- “I understand from [the husband] that these hearings have been continuous for the last sixteen years. Whilst I cannot comment on the proceedings continual stress is a contributing factor for future MI. Due to his current health issues [the husband] feels part-time work would reduce any additional stress. I feel this is a sensible plan and would encourage it.”
52. The husband has no additional income other than from his employment as a pilot. His second wife does not work. She cares for their two children. It was not possible for him to do more to care for the children because of the unsociable hours he is required

to work. It would not, he says, be economic for his second wife to work because the cost of childcare is prohibitive.

53. As mentioned in my earlier judgments, the husband's wife has a flat on the south coast of England, which is in her sole name but was also purchased with moneys from the husband's family trust. The amount of the loan, he told me, was £250,000, paid in 2014. There is a loan agreement, but I have not seen a copy. None of the outstanding loan has ever been repaid. I was told at this hearing that in 2018 a mortgage of £100,000 was taken out against the flat for 'the maintenance of the property and debt'. The mortgage is repayable at the rate of £450 pcm. The flat is let at a rent of £1,100 pcm. No part of what is received by way of rent is used to meet the outgoings on the family home.
54. The husband updated his schedule of outgoings from May 2022. The figure then was £7,978 pcm; it is now put at £8,460. The latest figure includes the payment of £1,400 pcm to the wife and XFR.
55. I limited cross-examination on both sides on outgoings and lifestyle, preferring instead a broad-brush assessment of needs in light of my two recent judgments. The husband accepts he has no mortgage or rent to pay for the home in which he lives. There is, however, no specific sum for the repair or maintenance of the property beyond interior/exterior decoration at the rate of £45 pcm, despite it being said to be a term of his occupation that he 'maintain and improve' the property.
56. The level of his expenditure is proportionately much higher than that of the wife and XFR. His expenditure on gas, electric and fuel is nearly £6,500 more than that of the wife. He spends much more than they do on eating out and supermarket shopping; he also invests in crypto currency deals; and he makes frequent purchases on Amazon and eBay. His budget for holidays, entertainment, sports and hobbies is £666.25 pcm or £7,995 pa. Expenses specific to his other two children amount to £715 pcm or £8,580 pa. He was taken to a number of entries in his bank/credit card statements as to his eating out; Amazon and eBay purchases; new fish, food and equipment for the pond; and high levels of spending at supermarkets.
57. The husband disputes any 'voracious' spending. He told me he works hard in a stressful job, and it is unfair to target specific expenditure rather than looking at the whole
58. I have previously found that the husband needs around £5,500 pcm in order to meet the outgoings in his present home, excluding that which he should pay for the wife and XFR. I accept this figure will have risen in recent months owing to the general rise in the cost of living, and is likely to be £200-£300 more pcm now.
59. After he became seriously unwell on 2nd January 2021, the husband received a critical illness payment of £100,000 on 21st July 2021. His evidence to me at an earlier hearing was that £70,000 was used to pay off debts and, at the end of 2021, £30,000 remained. I note that part of the mortgage (albeit an unspecified part) taken against the coastal flat in 2018 was also used to pay off debts. His evidence to me at this hearing was that he now had credit card debts of between £35,000-£36,000 spread across six separate cards. The payment of those credit cards is not accounted for in his schedule of expenditure.

60. I have not read and nor can I recollect it being said in July 2022 that the husband's debts were then at a particularly high level. Indeed, paragraph 8 of his counsel's note, dated 26th July 2022, speaks of a debt on a Tesco credit card standing at £5,028.76 in January 2022. But this does not appear ever to have been updated in the evidence before me in July 2022.

The Wife

61. The wife's living arrangements also remain unchanged, except to the extent that XFR attends college overnight Monday to Friday every week during term time; XFR spends weekends and holidays with the wife.
62. The home in which they live is adapted for XFR's use.
63. The wife remains responsible for taking XFR to her many medical appointments during the week; there were now fewer than sixteen in January 2023. The position is complicated at present because it is likely that XFR will need to undergo surgery this year, but requires spinal imaging first. This aspect of her care is now subject to proceedings in the Court of Protection. XFR will require six weeks convalescence at home after any surgery.
64. The benefits payable to the wife and XFR are even more complicated to calculate now that XFR has started college. This was foreshadowed in my earlier judgments. The local Welfare Unit has again provided helpful advice about that to which both are entitled. The automatic care element of XFR's Personal Independence Payment (PIP) has ceased and is subject to the wife accounting to the DWP for the number of days XFR is in her care. Owing to her own heart condition the wife receives a PIP of £505.40 pcm, split £258 as to mobility and £247.40 as to care. The important point to keep in mind is that the amounts payable are variable on an almost monthly basis. I calculate the wife received £1,845 for the month of January 2023, which is consistent with Mr Taylor's figure. It is made up of Carer's Allowance, Personal Independence Payments (for both) and Universal Credit (for both); some of the benefits are paid calendar monthly, others lunar monthly. In addition, the wife has received two government payments, both of £324, to assist with the rise in the cost of living. However, there can be no certainty about the benefits payable; it will depend on the number of days XFR spends in the wife's care. It is not possible, in my judgment, to rely, as the husband does, on receipts to the wife's account to establish a greater income from benefits, or from elsewhere for that matter, than I find to be her income now or as I found in my earlier judgments. I find that there is double accounting here. I use £1,845 for January 2023 as only a guide. The figure will increase by 10.1% from April 2023 in line with inflation.
65. The wife has the option of requesting a Work Capability Assessment. If she is found to have limited capability for work-related activity, she would be entitled to an additional £354.28 pcm. Equally, if found fit to work, she would be entitled to a work allowance of £573 pcm. The husband's point is that the wife cannot have it both ways. She must claim one or the other. However, as Mr Taylor points out, the wife has not been 'signed off'. Her case is squarely put on the basis that she already undertakes more hours than full-time work and given her own health is unable, at least at present, to work in paid employment on top of 'the many roles she performs for XFR'.

66. The wife is entitled to direct care payments from the local City Council. This is set out in the bundle [p. 221] and is much reduced from the figures in 2021. It is accepted that she could request an assessment for budgeted hours to enable her to undertake a part-time job. However, XFR's forthcoming operation and the wife's own health problems do not make that a realistic option, at least at this time, and she gave detailed evidence of being unable to find carers, such as she has had in the past (particularly Tracey) who have the competence and commitment to manage XFR. Even if such assistance could be found, there is still the need for XFR to be taken to hospital appointments and be cared for during outbreaks of covid and other viruses at college such as occurred recently.
67. I have read and heard medical evidence about the wife's health. She has complex congenital heart disease, with clinical and biochemical evidence of heart failure, alongside cardiac arrhythmias. The condition can lead to the wife becoming acutely unwell as when she was hospitalised for a week in May 2022. Her treating consultant, wrote in her penultimate report the following:
- “... [the wife] was admitted to her local hospital on 19th May 2022 with an episode of acute pulmonary oedema relating to her heart failure. This was an unheralded event, and demonstrates the fragility of her cardiac status. Her medical therapy has been intensified and she has made a good response thus far, but the medium to long term future ... is difficult to predict.”
- The consultant considers the wife may be able to undertake part-time sedentary work ‘in a low stress environment’, but her role as carer for XFR is the equivalent to work. The wife's GP shares that view; the wife may be able to undertake part-time sedentary work in isolation but not on top of caring for XFR, even when XFR is at college. Even during those weeks, the wife provides about sixty-six hours care for XFR, considerably more during the holidays.
68. The wife's GP gave brief evidence via video link on 10th February 2023. It was, she said, asking too much of the wife to undertake part-time work on top of what she already does to care for XFR and the wife's own considerable health problems. The wife's biological age owing to her health problems was actually 65. The GP has not completed any Work Capability Assessment of the wife; nor has the wife applied to be signed off as being unable to work.
69. As things stand the wife's income is around £1,845 pcm in benefits; in addition, under my previous order, she receives £1,400 pcm, making a total of £3,245 pcm. Her outgoings are put at £3,243.68 pcm; this figure is reduced by £100 from her schedule of £3,343.68 owing to an error as to petrol expenses. She has credit card debts of around £4,300.
70. In July 2022 I found that the wife needs to be around £2,800 pcm to meet her outgoings. Just as with the husband, I accept this figure will have to be revised upwards by around £200-£300, although perhaps a slightly lesser figure than the husband's given the scale of his outgoings. However, I bear in mind the fixed term of the wife's mortgage ends in July 2023 and will have to be renegotiated.
71. At the present time the wife is unable to find work, despite her earlier optimism. She points to her deteriorating health in the last 18 months, which is supported by the

medical evidence, both from her treating consultant and GP. The demands of caring for XFR at weekends and during the holiday remain substantial. I accept her evidence as to the number of hours this entails. I also accept her evidence as to the number of medical appointments she is required to attend with XFR; these are set to increase further with whatever further investigations are needed in advance of any foot surgery. While direct care payments are available to meet the cost of alternative carers, I accept the wife's evidence that she has been unable to find reliable staff. In short, I find the burden of meeting XFR's care, at least at this time, falls entirely on the wife.

72. I add that the wife has undertaken some limited work experience with a local firm of solicitors. This was disrupted by reason of the wife having to deal with an issue in respect of XFR. The wife also, and unexpectedly, received a payment for having attended the work experience, leading to her having to repay part of her benefits for that month.
73. My finding is that, for the reasons given above, the wife is not able to take up work at this time. That may change, particularly after XFR's surgery. I remain of the view that the wife would wish to work, if that were possible. I do not, however, underestimate how much care XFR requires and will continue to require going forward.

Discussion and analysis

74. It is pointless my repeating that which more senior judges have previously said in urging these parties to attend mediation. Both complain of the stress of attending court hearings and the strain it has on their health. Yet both are unprepared to find an alternative.
75. I have set out above my findings on the facts and the figures for the parties' income, expenditure and needs. I turn to the discretionary exercise I must undertake in making my decision.
76. In reaching my decision, I apply the law as I have stated it to be above. I have read and re-read the court bundle and my notes of the oral evidence. I have taken into account the written closing notes on behalf of both parties.
77. The husband's proposals are unchanged from 2022. He accepts he must continue to pay periodical payments for XFR but at a rate of £400 pcm until he retires or reaches the age of 60. The joint lives order in favour of the wife should be discharged now.
78. The wife seeks a final order for periodical payments at the rate of £1,500 pcm, split as to £1,499 pcm for XFR and £1 pcm for the wife. There remains a need for spousal periodical payments given that the wife has given up much of her adult life to care for XFR. The wife would be unable to adjust without undue hardship to the discharge of the joint lives order in her favour now. In the event XFR no longer needed the wife to care for her a term order to transition to independence is likely to be required.
79. Needs are the dominant or magnetic factor for both the wife and XFR. However, I must consider the needs of both parties and the husband's ability to meet any order. I repeat what I said in 2022: there is only so much to go round.

80. I must take into account in the broadest sense XFR's financial needs. Her disabilities are profound and lifelong. The home in which she lives has been specially adapted to meet her needs. Those needs, I find, require additional expenditure for heating, clothing and splints for her legs to name but a few. I have set out what benefits she receives; she has no additional financial resources. The wife has always been XFR's primary carer. This will continue.
81. The wife is not sensibly able to look for employment **at this time** (my emphasis). I reach this conclusion based on the medical evidence about the wife's health, in addition to her care of XFR. There are further demands on the wife for XFR's care arising from the issues currently being dealt with in the Court of Protection.
82. The wife's and XFR's benefits from benefits will vary from month to month. Adopting, as I do, the guide of £1,845 pcm and adding the 10% increase from this month, their joint income from benefits is likely to be in the region of £2,000 pcm. I bear in mind the husband's point that should the wife be assessed as being medically unfit to work, she would receive additional benefits of £354 pcm. That, however, is not currently the case.
83. The husband acknowledges that he must continue to pay periodical payments for XFR. The wife, he argues, should make herself self-sufficient either by working or by claiming those additional benefits to which she would be entitled if unfit to work. Either way his obligations towards her should be discharged now.
84. In my judgment of 12 September 2022, I reached the conclusion that the husband was living in a property which is beyond his means. That remains my conclusion. It matters not that he pays no rent or mortgage for his occupation of it. I am not satisfied he does pay anything for its maintenance and improvement which, he says, is one of the terms of the trust. There is no figure within his schedule of outgoings that shows he does. His outgoings, even on my pared down assessment, exceed his net income. I add his full-time net income. I cannot see how it is possible that he could even contemplate working part-time given his case, as I have previously made clear. He has recklessly taken on responsibilities he cannot afford.
85. I am also troubled by the level of debt he now says he has which, I am satisfied, was not revealed in the evidence in July 2022. His spending is proportionately much greater than that of the wife, as is his standard of living.
86. The husband says he would be 'worse off' if he moved; he would have to pay rent, which would be expensive. He states, as he has before, that the trust would not entertain any suggestion of allowing him to downsize to a smaller property in the area. He provides no reasons for this, or any evidence of the trust being asked, or why the trustees would refuse if the investment was secure. His sister is one of the trustees; she owns her property outright; it is not subject to the trust.
87. I can only encourage the husband urgently to re-order his affairs in a way that he is sensibly able to meet his responsibilities to the wife and XFR as well as his second family. A lesser property with lesser outgoings is, in my judgment, an obvious answer. I also cannot see what financial benefit the coastal flat currently brings. The husband told me it was an added financial drain to the family.

88. My decision is that the husband should pay £1,200 pcm, made up of £1,199 to XFR and £1 to the wife. That is to be a final order. I believe it to be a fair order. It is less than the wife seeks but sufficient, in my judgment, to meet her outgoings as I have now assessed them to be, and more than the husband offers to pay. In my judgment, any lesser order would place the wife and XFR at risk of losing their home.
89. I am satisfied, on the facts as they stand now, that the wife cannot adjust without undue hardship to the discharge of the joint lives' order at this point.
90. That is my judgment.
91. I shall formally hand down this judgment on a date convenient to the parties and Ms Morgan shortly. Convenient dates/times should be sent to Ms McKenna-Smith by 4 pm on Friday 28th April 2023.

Postscript

I Annex to this judgment, a copy of the reporting restriction order I made on the 29 June 2023 a copy of which is to be served on the parties and the legal blogger, Ms Polly Morgan.



In the Family Court at Leeds

Case no. LS20P00806

The Matrimonial Causes Act 1973

REPORTING RESTRICTION ORDER MADE BY HHJ SHELTON
ON 29th JUNE 2023

TO ANYBODY WHO HAS SEEN THIS ORDER OR IS AWARE OF ITS CONTENTS: You must obey the terms of this order. If you do not, you may be held in contempt of court and punished by a fine, imprisonment, confiscation of assets or other punishment under the law.

Upon the Court having received representations from the parties and from the attending legal blogger as to the terms of this Order and the relevant rights and interests involved

Upon the Court having undertaken the balancing exercise set out in *Re S* [2004] UKHL 47 and concluded that the restrictions set out in paragraph 13 are necessary to secure the proper administration of justice and in order to protect the interests of the parties' daughter and that there is no sufficient countervailing public interest in disclosure

Notice and Definitions:

1. This order is an injunction, which means that you must do what the order says.
2. The point of contact for any reporter is the Court Office. The details are at the foot of this order.
3. In this order, "reporters" means duly accredited representatives of news gathering and reporting organisations and duly authorised lawyers attending for journalistic, research or public legal educational purposes (legal bloggers) (together referred to in this order as 'reporters') who are entitled to attend a hearing under r.27.11 of the Family Procedure Rules 2010 ('FPR').
4. In this order, "Daughter", means the parties' disabled adult daughter.
5. Section 12 Administration of Justice Act 1960 continues to operate save and insofar as this Order varies it. This means that any publication of information relating to the proceedings which is not permitted by this Order is a Contempt of Court.
6. If and to the extent that the Judicial Proceedings (Regulation of Reports) Act 1926 applies, permission is hereby given under s1(4) to report such matters as are permitted by paragraph 11 below.

Who does this order apply to?

7. The Order applies to:
 - a. The parties and their lawyers;
 - b. Any witnesses in the case;
 - c. Anybody who attends some or all of a hearing in the case;

- d. Any authority, body or organisation (and their officers, employees, servants and agents) for whom any such person works, is employed, engaged or is giving evidence.
 - e. Anybody who is served with a copy of this order or is aware of its contents.
8. This Order will be served on the parties and their lawyers, and any reporter who attends a hearing and wishes to report on what they see, read, and hear.

It is ordered that:

9. This Order will remain in force unless and until it is varied or ended by the Court.
10. This order applies to any person who is aware of its contents, including those set out in paragraph 7.

What may and may not be published?

11. A person may publish any information relating to the proceedings save to the degree restricted below.
12. Save where this information is present in the anonymised published judgments, no person may publish any information relating to the proceedings to the public or a section of it, which includes:
- a. The name, addresses, or date of birth of the parties' or their Daughter.
 - b. The Daughter's college or hospital name or address, or any identifying features of the college attended by the Daughter apart from the fact that it is an educational facility offering weekly boarding;
 - c. Photographs or images of the parties or their Daughter, or any of the locations specified above in conjunction with other information relating to the proceedings;
 - d. The names of any medical professional who is or has been treating any of the parties or their Daughter.

Documents

13. A reporter who attends a hearing in family proceedings in accordance with FPR r.27.11, or who indicates in advance that they wish to attend a hearing, is entitled to see, quote from, or publish:
- a. Documents drafted by advocates (or litigants if a party is self-representing):
 - i.e. Case outlines, skeleton arguments, summaries, position statements and chronologies.
 - b. Any indices from the Court bundle.
 - c. Any suitably anonymised Orders within the case.
14. Parties to the proceedings and their representatives may not disclose documents from the proceedings to reporters, except as specified above, or with the specific permission of the court. This includes where a document is referred to or quoted from in court that the reporter would not otherwise have access to.

15. Any such requests for copy documents must be made at or before a hearing which the reporter has attended pursuant to FPR r.27.11.
 - a. Upon a request being made, the author of the document shall as soon as practicable provide a copy of the document to the reporter.
 - b. The reporter may quote from or publish the contents of the document, save that the details at paragraphs 12 of this Order may not be published. Where any document referred to above quotes from a document to which the pilot reporter would not be entitled to see (such as source evidence), the passage quoted may not be reproduced or reported without permission of the court.
16. No other document may be provided to a reporter without permission of the court.
17. A reporter may share documents or information with their editorial team or legal advisor responsible for the publication of their proposed report of the case, providing that they also provide any such person with a copy of this order which will be binding upon that editorial team or legal advisor.

Discussions between pilot reporters and parties and their representatives

18. The parties to the proceedings and their representatives may disclose information from proceedings, and share any hearing dates, with a reporter for the purpose of discussing the case and informing the reporter of the circumstances of the case.
19. Where the parties or their representatives have invited reporters to attend a hearing, permission is given retrospectively for any discussions that took place with reporters.

Operation

20. Permission to report is not effective until service of the order on the pilot reporter, the reporter having indicated willingness to accept service by email.

Other Orders

21. Permission for this Order to be served by email. Email shall be effective service for the purposes of FPR Part 6 and FPR Part 37.
22. Liberty to the parties and any reporter to apply on notice to vary or discharge this Order.
23. Any application to vary or discharge this Order should be made by way of D11 application, with the fact and nature of any objection being clearly set out in an accompanying position statement.

29th June 2023

