Neutral Citation Number: [2024] EWFC 348

Case No: ZE22P00059/CR21F00063/
CR21P00064/CR21P00069/CR21F00070

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/11/2024

Before :

THE HONOURABLE MRS JUSTICE JUDD

- -

Between :

E	**Applicant**
- and -	
Y	**Respondent**

- -
- -

Shiva Ancliffe KC and Kieran Pugh (instructed by **Beck Fitzgerald Solicitors**) for the **Applicant**
The Respondent did not appear

Hearing dates: 20th & 21st November 2024

- -

Approved Judgment

This judgment was given by CVP in Court 48, RCJ, at 10.10am on 27th November 2024 and released to the National Archives.

.....

The Honourable Mrs Justice Judd

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.

Mrs Justice Judd :

1. These are proceedings relating to two young children who are now nine and four years old. The parents never married but lived together for about ten years, separating only a few months after the second child was born. The children remained with their mother.

2. Shortly after separation both parties applied for orders with respect to the children and for non-molestation orders. The father's application was made on 22nd February 2021, and the mother's on 23rd. Her application was made without notice to the father and granted. A return hearing was listed on 11th May where the applications were consolidated. The order against the father was extended but the court did not determine the father's application at that point. Safeguarding checks were ordered in the children proceedings. The mother also applied for a specific issue order to enable the children to have routine vaccinations as advised by their GP. This order was made by consent.

3. On 1st November 2021 the First Hearing Dispute Resolution Appointment took place. The father applied to discharge the non-molestation order, an application which was refused and the order extended. Directions were made as to police disclosure and indirect contact between the father and children was ordered. The case was set down for a fact finding hearing in the spring of 2022. In the meantime a number of applications were made, including by the mother for an order pursuant to section 91(14).

4. The fact finding hearing in April 2022 had to be adjourned because of the sheer number of issues that arose. It was relisted to take place in June. That hearing began but was adjourned part heard, on the basis of the father's conduct during the hearing, as recorded on the face of the order. The hearing resumed in October 2022, with judgement given on 22nd November. The judge made a number of serious findings against the father and none against the mother. She found that the father had threatened to kill the mother whilst straddling her and gripping his hands tightly around her throat, causing her to have bruises and marks upon her body. She also found that he threw a plate at the mother which hit her and caused a gash to her head. The judge also noted that the father had referred in emails and text correspondence to wanting to slap the mother hard, and to knocking all her teeth out. She found that the father demonstrated a pattern of behaviour that was used to intimidate and undermine the mother, her quality of life and her ability to provide for and protect the children. She found that the father, who, by his own admission would follow the mother and film her, was behaving in a way that was designed to be psychologically manipulating. He posted material which suggested he was trained in the use of guns, and sent incessant, demanding and intimidating messages.

5. The judge said that she had not encountered such a difficult, rude and unboundaried witness as the father in a long time. As a litigant in person he bombarded the court and professionals involved with material. He made sarcastic remarks during the hearing. He had little regard for court orders, filed documents at will and complained if his emails were not responded to within 24 hours. His presentation at court was dysregulated, angry, frustrated, controlling and intimidating. He appeared to have little insight into how his actions impacted on others.

6. Following that hearing the father made an application for the judge to recuse herself. A case management hearing in December 2022 was vacated as the application for recusal

had not been heard, and the father was in the process of instructing new solicitors. Another hearing in January was also vacated with a direction that the father's new solicitors should confirm to the court that they had applied for the transfer of his public funding certificate. This was confirmed very shortly thereafter. The next case management hearing was held on 1st March 2023. The judge handed down judgment the following day, refusing to recuse herself. She also determined that there should be no psychological assessments of either party. At that point the father was refusing to undergo such an assessment unless the mother did so as well. Cafcass was ordered to file a s7 report and the parties were directed to file statements with respect to the mother's specific issue applications for the youngest child to be baptised, and for the children to have immunisations. The matter was set down for a further hearing in July 2023.

7. In the meantime the case was transferred to be heard by a High Court Judge, Mr. Justice Francis. The father's solicitors came off the record. He made a number of applications including for the mother to be held in contempt of court. That application was withdrawn by him at a hearing on 11th July. Another hearing was listed on 8th November 2023 which was before me. The day before the father applied for it to be adjourned due to counsel having withdrawn at short notice. Another hearing was listed on 14th November which was before Mr. Justice Francis. Some progress seems to have been made that day, as orders were made with respect to the youngest child being baptised, the prohibited steps order with respect to travel was discharged, and the father was directed to file a bundle of police material he asserted was missing from the bundle for the previous fact finding hearing. Section 91(14) orders were made with respect to both parties, prohibiting applications under the Children Act without leave. The case was then listed for final hearing in February 2024.

8. On 8th February the father applied for an adjournment of the final hearing on the grounds that he was unwell. At the hearing itself the father did not attend. A paralegal from his current solicitors attended. The Cafcass Officer was not able to attend or give evidence. In those circumstances the final hearing was adjourned. In May 2024 the father's solicitors came off the record.

9. A pre-trial review was listed before me on 26th July 2024, and the case listed for final hearing in October (those dates were then moved to 20th and 21st November due, I believe, to my own commitments). The father appeared remotely at the pre-trial review. He asked me to recuse myself, an oral application which I refused albeit I told him that if he wished to issue an application in proper form, I would consider on the papers. The father did renew it, and I refused it again.

10. At the hearing in July I ordered that a QLR be appointed to ask questions of the mother on the father's behalf. Although the father submitted that he was to be represented at the final hearing I was concerned that this might not be sustained, given the history. A QLR was appointed at the end of September, and the father was informed. He then emailed the court to say that he rejected the appointment. He stated that the QLR was not sufficiently experienced in family law, and that in any event he was now represented by Goodman Ray. Having seen his email, the QLR asked to be discharged. These emails were passed to me, and I made a decision to do just that. I ordered that there should be a Ground Rules hearing on 6th November.

11. Meanwhile the father's application for permission to appeal against the findings of Her Honour Judge Major out of time was refused by the President of the Family Division on 31st July and certified as being totally without merit.

12. The father issued further applications challenging the transfer of the case to a High Court Judge, and the orders under s91(14).

13. The father also applied for permission to appeal my refusal to recuse myself and my decision to discharge the QLR. Permission was refused by Peter Jackson LJ on 6th November. The applications were certified as being totally without merit.

14. Meanwhile on 4th November the father sent an email stating that he wished to formally state his intention not to participate in the upcoming hearing if I was to preside, citing what he said were failures by myself (and other judges) to address relevant issues (including his allegations of perjury against the mother). He also sent what appeared to be a report in the Guardian newspaper entitled 'A father involved in a protracted family court battle has declared his refusal to attend an upcoming hearing, citing allegations of judicial bias, unresolved accusations, and systemic failures that he claims have left his reputation unjustly tarnished'. Although the report was in a format that included the Guardian's headline it seemed very unlikely, from the way it was written, to have actually been in the newspaper itself, not least because it extensively quoted from statements from the proceedings, which they would have known required court permission. The Guardian was contacted by the mother and have said that the publication has not come from them.

15. The father did not attend the hearing on 6th November. I made directions for the final hearing, once again appointing a QLR. In the event it was not possible to find a QLR in the time available.

Legal Framework

16. The applications concerning the children are governed by the Children Act. In coming to decisions the children's welfare is my paramount consideration and I am guided by the welfare checklist in section 1(3). Under s1 (2A) the court is to presume, unless the contrary is shown, that the involvement of each parent in the life of a child will further their welfare. Under section 1(2) the court shall have regard to the general principle that any delay in determining the relevant question is likely to prejudice the child's welfare. The court should only make an order when doing so would be better than making no orders at all.

17. It is open to the court, when the welfare of the child requires this, to limit the ability of one parent to exercise some or all aspects of parental responsibility by making a prohibited steps order under s8, see in particular *H v A* [2015] EWFC 58, Macdonald J at paragraphs 51 to 56.

18. In cases where there is domestic abuse and harm, the provisions of Practice Direction 12J apply. I have had particular regard to paragraphs 35 to 37.

19. So far as the application for a non-molestation order are concerned, the provisions of the Family Law Act 1996 apply.

20. The court's powers with respect to s91(14) were considered in the cases of *Re A (A Child)*[2021] EWCA Civ 1749 and *A v F* [2022] EWFC 127. The court's powers are not limited to cases where one party has made an excessive number of applications, and the guidelines do not restrict the use of this section to exceptional cases. There should be increased scope for using the orders where welfare considerations demand it, especially in circumstances where a party is weaponizing applications to the court.

21. The Domestic Abuse Act 2021 inserted a new s91A into the Children Act 1989 which provides that the circumstances in which the court may make a section 91(14) order include, among others, where the court is satisfied that the making of an application for an order under this Act of a specified kind by any person who is to be named in the section 91(14) order would put (a) the child concerned, or (b) another individual ("the relevant individual") at risk of harm. Practice Direction 12Q applies.

22. I also bear in mind at all times the provisions of the European Convention on Human Rights, in particular Articles 6 (Fair Trial) and 8 (Right to respect for Private and Family Life).

Application to adjourn the final hearing

23. The father sent an email for my attention on 5th November asking for an adjournment of the final hearing. In that email he set out a number of reasons for this. He said he had a competing court attendance obligation on 22nd November, that he had an ongoing criminal appeal relating to convictions for breaches of a non-molestation order, that there was a police investigation against the mother (which seems to have been instigated by the father), that there were professional misconduct allegations against the mother's legal team, and that he had recently retained new solicitors who needed time to prepare the case. He also pointed out that there was an impending appeal against my decision not to recuse myself, and to discharge the QLR.

24. On 7th November the father copied a number of individuals in various organisations to an email to his GP, Dr. T, stating that he wanted to 'follow up on our recent conversation to ensure full transparency regarding the ongoing court matters and their impact on my well-being'. He stated he was subjected to ongoing harassment from the mother and her legal team, and that he had safeguarding concerns for the children. He stated at the end of the email 'my stress and anxiety levels have been on overload this week its been very rough. Thank you very much' In the email he also asked for repeat prescriptions for Setraline and Mirtazapine.

25. On 12th November the father sent an email complaining about the draft order from the hearing on 6th November. He enclosed a medical certificate from Dr. T stating that he was not fit for work due to 'Anxiety, Depression and Mental Exhaustion secondary to Court Case on Mirtazapine and Sertraline'.

26. Following receipt of that certificate the mother's solicitors responded to say that the certificate was insufficient to demonstrate that the father was unable to attend court.

27. On Monday 18th November, two days before the final hearing, the father sent a letter from Dr. T to the court. In that letter Dr. T stated that he has been treating the father for anxiety and depression and that he is now experiencing a particularly challenging period, which has significantly impacted his mental health and ability to manage high-

pressure situations, particularly cross-examination in court proceedings. Dr. T stated that he was adjusting the father's medication to address his recent deterioration. He stated that the symptoms are expected to improve within the next two to three months, and that the father is currently not fit to effectively engage in a court hearing and that doing so was likely to exacerbate his symptoms.

28. I was not prepared to adjourn the hearing on the papers in advance of the hearing on the basis of the GP letter or the father's emails and he was informed through my clerk that the hearing was still listed. At 6.47 pm on 19th November the father sent the court an unissued C2 application for an adjournment. In that he set out a number of grounds for his application. First he stated he was medically unfit and cited Dr. T's evidence in support. He submitted that the evidence was thorough and reliable, and that for the hearing to go ahead would be in breach of his rights pursuant to the ECHR. He also submitted that there were issues as to the credibility and integrity of the findings of Her Honour Judge Major, and raised concerns about judicial fairness and impartiality. He also said that the mother's legal team had failed to provide timely disclosure of documents which affected his ability to cross examine the mother, as did the fact that there was no QLR. A number of legal authorities were cited by the father in support of his case.

29. The father did not attend the hearing listed on 20th November. The application to adjourn was not agreed by the mother and refused by me. The father was informed of this immediately thereafter by my clerk. He was offered the opportunity to join the hearing by video link at 2pm but despite sending a very long message in reply he did not respond or join the hearing.

My reasons for refusing the adjournment

30. Although I take the letter from Dr. T at face value, his medical opinion will not be fully informed by all the factors in the case which are known to the court. Whilst it contains some detail there is no analysis as to what features of the father's condition actually prevent as opposed to impair his participation (for which the court could make adjustments and allowances). Further, I am bound to take into account the fact that at all material times (both before, during and after the hearing) the father has been vigorously pursuing the litigation on his own terms. He filed a position statement which was 153 paragraphs long for the directions hearing on 6th November. Both before and after that hearing he has sent in a very large number of emails to the court, copying in a wide variety of people. These emails have come in at all times of the day and most of them are lengthy and accusatory in tone. He complained about lack of disclosure in an email of many paragraphs citing legal authority. He has applied (by email) for further police disclosure. He has emailed the SRA and the BSB to challenge an assertion that members of the mother's legal team have not been contacted by their professional regulators (he has complained about counsel and his instructing solicitor). He has sent several lengthy emails to the mother's solicitors, and has threatened to report her to the SRA again. In response to receiving a proposed draft order from the mother, at my direction, he filed several more emails in the space of a very short period of time.

31. In addition to the emails the father has filled in applications and sent in statements. The level and tone of his engagement simply does not support the proposition that the father was unable to participate in the hearing at all. Further, I have a great deal of material from him setting out his case and detailed responses to the evidence.

32. The father's application is also based on the lack of a QLR and non-disclosure of evidence. I will deal with that in turn. When a QLR was appointed in September he informed him and the court that he rejected it, based on the experience of the QLR and because he was legally represented. It was that which triggered the response of the QLR and my subsequent decision to discharge him. Had the father not acted as he did, the appointment of the QLR would have remained up until this hearing. There has been a pattern in these proceedings of the father being represented, changing solicitors, and then his solicitors coming off the record.

33. In any event, I do not consider that case could not have proceeded fairly without a QLR. All the correspondence from the father suggests that he is hoping for the mother to be cross examined about factual issues that are no longer before the court. His applications for disclosure of police evidence are evidence of this. As I made clear at the hearing on 26th July, the findings of Her Honour Judge Major in November 2022 stand, and welfare issues in relation to the children, and indeed all matters before the court fall to be considered in the light of them. I appreciate the father does not accept those findings but I would not have allowed this hearing to be used for the father to seek to go behind decisions and findings that have been made. In truth, the ambit of any cross examination of the mother would have been limited. Those questions could have been distilled into writing on the first day of the hearing and asked of the mother in that way.

34. Therefore the lack of any further police disclosure or a QLR do not have a significant impact on the case. It is correct that I ordered that a transcript of the remarks of the sentencing judge in the criminal proceedings against the father (he was convicted of 7 counts of breaching the non-molestation order and sentenced to 15 months' imprisonment suspended for two years), and that those have not been produced and disclosed. The father has said that it is vital that I read those as the judge dealt with his motivation in breaching the orders. I do not consider that the lack of this evidence justifies adjourning this hearing. I am dealing with the case on the basis of the very substantial amount of evidence before this court, not on the convictions. In any event, I understand from the father is appealing them.

35. These proceedings have been going on for almost four years. Given the extensive delays and the very demanding way in which the father conducts the litigation the proceedings continue to be a very significant burden on the mother and by extension, the children. I note that in her judgment dated 20th March 2023 Her Honour Judge Major stated that the mother was entirely justified in feeling 'permanently terrified' of the father. Since that date the father's litigation behaviour has not abated, if anything it has got worse. Taking into account all the factors in this case, and the very damaging effect of these extended proceedings, I came to the view that the application for an adjournment must be refused and the hearing should proceed. As I said above, the father was given the opportunity to attend by video link, an offer which he did not take up. He sent several more emails during the course of the day, late into the evening. He filed another application and a statement. Emails still continue to arrive.

The hearing

36. I read all the statements in the bundle provided to me and the position statements. I have done my best to read the emails and attachments sent in by the father despite their volume and the fact that he has sent them in a haphazard way without regard to any

directions for the filing of evidence. I also read the bundle the father filed for the directions hearing on 26th July.

37. I heard evidence from the Cafcass Officer. She told me that she had seen the children again, on their own without the mother, in the summer. They were doing very well. They were well presented and appeared to be in good spirits. They were happy to speak to her about what they were doing. The proceedings were not discussed as the purpose of the meeting was simply to find out how they were getting on given the length of time since the report. The officer had no safeguarding concerns at all.

38. The Cafcass Officer said that the father had sent a large number of emails to Cafcass, and had had to be asked to refrain from doing so. For a while these emails were diverted from her inbox by Cafcass but in the last few weeks she had started receiving them again due to the imminence of the hearing. When she had interviewed the father he had refused to listen to anything she had to say, and had wanted to record the meeting. She tried to discuss ground rules with him but he was not having any of it. She said that the father's conduct had had an effect on her, leading her to take some time off work. She said that nonetheless this case was about the children, and she was of the firm view that the proceedings needed to be concluded.

39. She said that she understood the father had not taken up most of the indirect contact that he had been offered and that the children were confused about this. She said that she found no evidence that the children had been alienated by their mother, or told what to say.

40. She also said that the mother had been under a lot of pressure as she had been 'inundated' by allegations against her and had had to be strong for the children.

41. I saw that the mother was in tears during this part of the Cafcass Officer's evidence. She was sitting at the side of the court, half way behind a screen. I do not think she would have been expecting to be observed by me or anyone else at that point.

42. The officer also stated that she was very concerned about the way the father had presented throughout the proceedings and the way he had put the children under pressure. In answer to a question from me about her proposal that there should be an order pursuant to section 91(14) she explained that what she had meant was that after the period of two years the father should be required to show that he has completed a psychological assessment, undergone a hair strand test and taken responsibility for his abusive behaviour and taken part in a Domestic Abuser Perpetrator Programme. In other words, the requirements should come after the period of two years, not simply within it. She said that a period of two years for an order would not, in her view, be adequate as this was a very unusual case and the effect on the mother was profound.

43. The mother then gave evidence herself. She said that the father had sent no letters for the children. He has sent some gifts at Christmas 2022, and also in the summer of this year. The gifts were accompanied by very short cards. She said that she found the proceedings extremely stressful, and that they had made her very anxious. She believed that the father wished to make her life a misery by making serious accusations against her and repeated applications. She had also had to give evidence in the criminal proceedings when he was tried for breaching the non-molestation order. She said she felt in a constant state of worry in her head, sometimes panic. She said that she was

worried about seeing him. She said that she knew he had reported her to the police for perjury but that they had not contacted her about it.

44. She said the children were happy, and did not ask about their father. They are doing well at school, and she tries to move on to be strong for them. She said that she was extremely relieved that the hearing had not been adjourned and wanted the court to make orders to prevent the father from making applications to the court for as long as possible to avoid the stress of being in proceedings. She was concerned that the paternal grandmother's application for contact was really a vehicle for the father to pursue her rather than anything else.

45. As the father did not attend the hearing I did not hear any oral evidence from him. Nonetheless, as noted by Her Honour Judge Major, most of the evidence about his behaviour and conduct comes directly from him. He shows no sign at all of accepting the findings of the court in November 2022 and continues to challenge them whenever he can. He repeatedly refers to evidence which he says contradicts the findings.

46. His references to the mother are couched in highly derogatory terms. He states that she has engaged in fraudulent conduct and has reported her to the police. Many of his emails and statements refer to her being 'under active police investigation for perjury'. He says that she has been arrested for drug driving. He has suggested she is not fit to look after the children. In one of his many recent emails he stated 'I seek definitive no nonsense judgments on the very serious issues involving [the mother]'s alleged misrepresentations under oath such as a 2015 abduction and assault incident, a 2021 school abduction claim, and false harassment allegations warrant judicial examination prior to the FH. These claims have been discredited by the record, including her assertion that I was the informant on her drug-driving incident, despite written evidence disproving this claim. Potential custodial outcomes from these findings may also impact her availability to attend the FH'.

47. The rhetoric deployed by the father extends also to the mother's legal team and others too. He has repeatedly accused them of dishonesty and reported her solicitor to the SRA on more than one occasion and counsel to the BSB. He has called junior counsel for the mother a 'rogue barrister'.

48. What is striking in all the material provided by the father is how little he says about the children. The only reference to their wellbeing is couched in terms of criticism of their mother. He has said nothing about what he would like to do in contact with them, how he would provide for them, or how he would shield them from the conflict. He says nothing about what they are like as individuals and has not asked after them. He has declined to take up the offer of indirect contact save for the provision of gifts once or twice a year. He has sent no letters to them. When I asked him at the hearing on 26th July what he was seeking he thought for a moment and said 'equal shared care'. He has not expressed this in any document since or explained how he thinks it would work.

49. Having surveyed all the material in this case, I have come to the sad but clear conclusion that the father is using these proceedings (which include not only the proceedings under the Children Act but also under the Family Law Act) as a means of undermining the mother and perpetuating his abuse of her. This is his primary purpose, not seeing his children or keeping in contact with them. The sheer quantity and content of the written material he produces is designed to not only undermine her, but those who stand in his

way. This includes the Cafcass Officer who was so affected by his conduct that she had to take some time off work and the mother's legal team.

The applications

Children Act applications

50. I accept the Cafcass Officer's evidence that the children are well cared for by their mother, and happy living with her and their maternal grandmother. A 'lives with' order was made by Francis J last year, and I consider that it is in the children's best interests that this order is made in final terms.

51. Although the father has said he wishes to have direct contact with the children and told the court in July that he is seeking 50-50 shared care he has not provided any more details as to how this would work when he is so hostile towards the mother. The findings made by Her Honour Judge Major were extremely serious, and the father shows no sign of accepting any of them. He continues to seek to undermine the mother and to cause her distress. I infer from what he has said in his emails that he would also like her to go to prison. If there was to be direct contact of any sort (including supervised) it is likely he would use this to further his agenda in that regard. He is not able to empathise with the children or understand how his behaviour would affect them. I fully accept the mother's evidence as to the effect of the father's behaviour on her, and find that she needs to be protected from that as much as possible in order to be the best mother she can.

52. I therefore find that direct contact of any sort would expose the children and their mother to an unmanageable risk of harm.

53. Both children clearly view home as with their mother, and are happy there. Having no direct contact with their father will be a loss for them but they need to have stability and security in the care of their mother and to be protected from the effect on her of their father's abusive behaviour. Whilst the involvement of both parents in the lives of their children generally further their welfare that is sadly not true in this particular case.

54. I will therefore make an order that there should be no direct contact between the children and the father. There will be an order for indirect contact as before should the father wish to take it up, but the mother will be at liberty to read any letters and look at presents sent to ensure that they do not cause the children distress.

55. The history of the case demonstrates that it is not possible for the mother to negotiate with the father about such matters as going abroad and obtaining routine vaccinations for the children. As someone with a residence order she may remove the children for up to a month for any periods of holiday. She may also obtain routine medical treatment and vaccinations for the children without his consent.

56. I turn to the question of an order pursuant to section 91(14). In coming to my decision about this, I am conscious that it was only at the hearing itself it became apparent that the application so far as the length of the term of the order was not simply limited to two years, as suggested in the Cafcass report and also in the position statement filed on behalf of the mother. I made it clear during the course of submissions that I was considering making an order for longer than this given the circumstances.

57. In my judgment this is a truly exceptional case. I have certainly not come across a situation such as this before, where a litigant has sent so many vituperative emails to the court, copying in the mother's solicitors, or acted in such an angry and confrontational way. There is no doubt at all that the father's litigation behaviour has contributed to the length, complexity and stress of these proceedings. I have found that the father's motivation in these proceedings is to seek to undermine and perpetuate his abuse of the mother. In those circumstances it is right for the court to make orders to protect her and the children.

58. These proceedings have been going on for over three years. The stress they have caused the mother is plain to see, and she has had to work hard not to let this affect the children. I find that the mother and the children would be at risk of harm if the father was to make any further applications under the Children Act, or whatever type, at all. They all need a substantial period of time when they can be shielded from this as much as possible. The father could have attended this hearing had he so wished and if he had, he could have made some submissions about the length of the order. I think it both right and proportionate for me to make this order now. Further, it is my view that two years is nowhere near sufficient to give the mother and children a break from proceedings, especially as there are likely to be further appeals.

59. Having carefully considered all the evidence, I have concluded that I should make the order to last until the youngest child attains the age of 10, which is a period of just over 5 years. By this time the older child will be 15. I hope that this will give them time to get on with their lives. In my judgment any lesser period than this will not serve their welfare or be sufficient to protect them. The interference with the father's Article 8 rights is both necessary and proportionate.

60. Section 91(14) does not provide for a complete bar to applications but a filter. In order to obtain permission to apply for an order I would expect the father to acknowledge his behaviour and the effect of it upon the children and to have attended a suitable domestic abuse programme. He would be expected to explain what sort of contact he was seeking and how he would approach this in the best interests of the children. It may well be that a court would also require and expect the father to undergo a psychological assessment without his laying down any condition that the mother should do so too. Were he to be able to engage with these things, any application by him for permission would be taken very seriously.

61. Even if the father applies as of right after the s91(14) order has elapsed, a court would be likely to wish to scrutinise his behaviour and response to the facts found in these proceedings and all the judgments herein before making any decisions.

62. It should be recorded in the order that any application for permission to bring proceedings should not be served upon the mother until an initial determination of the merits of the application has been made by a Judge of the Family Division, myself if I am available. That initial determination may be made upon the papers, or after an oral hearing, depending on the circumstances and the matters set out in the application.

63. Any application for orders under the Children Act after the expiry of the order under section 91(14) should be made to a Judge of the Family Division.

64. I do not find there is any justification for a similar bar upon the mother, indeed I think she should be able to approach the court if she feels she needs to. I accept that the reason that a two way order was imposed at an interim hearing was because the court had insufficient time to consider the overall merits of the competing applications and not for any other reason. I therefore discharge the order so far as she is concerned.

Non-molestation orders

65. A non-molestation order was made by District Judge Hay on 23rd February 2021 which was subsequently amended.

66. This was made without notice, but has been ordered to continue until the conclusion of the proceedings. In their position statement the mother applied for the order to continue. The father has responded by applying for it to be discharged.

67. The father has set out a number of reasons why he is asking for the order to be discharged, including that a restraining order has been made in the criminal proceedings. He states that the judge in those proceedings did not consider that there needed to be a geographical restriction to the extent that was being sought. The order has been made for five years.

68. I note that the restraining order provides that the father is not to contact the mother directly or indirectly save as permitted by any order of the family court (for the avoidance of doubt, telephoning, texting or messaging any telephone or device believed by the defendant to be used by [the mother]. The order also prohibits from going within 100 metres of the mother or entering the road in which she lives, or the local Tesco or park.

69. Ms Ancliffe KC and Mr Pugh submit that the non-molestation order has different terms to that of the restraining order, including a prohibition on using or threatening violence either by himself or instructing or encouraging anyone else to do so. The father is also prohibited from posting content relating to the mother on social media and from going to the children's schools.

70. I acknowledge that the application for an extension was only made in the position statement (followed up by a formal application on the first day of the hearing) but nonetheless I have concluded that I should extend the order. The father has been able to respond and put in his own application. The restraining order does cover some of the same ground as a non-molestation order but not all of it and the remit of the criminal court is different to that of the family court. Further, the father has applied for permission to appeal his convictions and I do not know the outcome of that.

71. Having regard to all the circumstances and in particular the health, safety and well-being of the mother and children I find that it is necessary and proportionate for there to be a further non-molestation order. This should include an order preventing the father from going to the children's school(s). I also find that it is necessary and proportionate to prohibit the father from posting any content about the mother on social media.

72. For all these reasons I have decided that the non-molestation order should continue in the same terms as were made by Her Honour Judge Major as amended in November 2022. The order should be made for a period of five years. The father's application for

the order to be discharged was not either issued or necessary given the fact that the order was due to expire anyway. Nonetheless I have taken into account his statements in support of it.

73. It is difficult to follow all the applications made by the father, many of which have been made informally. I dismissed his application for an adjournment. He also made a formal application dated 21st October 2024 which sought to challenge the jurisdiction of the High Court and the transfer of the proceedings to me, stating that it lacks legal basis and does not meet procedural standards for judicial transfers.

74. I dismiss this application and certify is as being totally without merit. There is no requirement for a judgment to be given setting out the reasons for a case to be transferred to a High Court judge sitting in the family court or between judges in the High Court. In any event the behaviour of the father in this case renders it exceptional, and amply justifies a transfer to a more senior judge.

75. This brings all applications made by the father in the family court to an end subject to any applications he may make for permission to appeal.

76. A number of applications which have been made by the father have been dismissed as being totally without merit. They include the order made by Her Honour Judge Major dated 20th March 2023, the decision of the President of the Family Division to refuse the father permission to appeal the findings of fact out of time (dated 31st July 2024), the decisions by the Court of Appeal dated 6th November and my decision with respect to the father's application dated 21st October. The number of these decisions mean that the question of making a civil restraint order should be considered in this case.

77. Given the volume of emails that the father continues to send to various court offices, there should also be consideration as to whether the father should be prohibited from contacting the court and the mother's legal teams by email.

78. The matter of a possible civil restraint order and orders with respect to emails will be considered by me at a later date in order to give the father time to respond. There is a date set for the grandmother's application for leave to apply for contact, and I will list this matter immediately after the conclusion of that hearing.

79. I have asked counsel for the mother to draft a proposed order to ensure that I consider all matters sought by them in coming to my judgment. As it is a draft prepared before judgment I asked for that to be shared with the father. He responded very quickly with lengthy emails suggesting a variety of inappropriate recitals that he says should be included in the order. He has also filed grounds of appeal in relation to the order, although I make it clear that the reason for asking for a draft was to ensure that I was clear as to what precise orders the mother was seeking, not because I had reached a final determination at that point. My decisions and the reasons for them are set out in this judgment.

80. In the circumstances of this case counsel will be invited to draft the final order in accordance with my decision, which I will then amend or approve as appropriate.. Just as I stated for previous hearings (on 26th July and 6th November) I do not direct that this should be sent to the father for comment, due to the volume of emails that that is likely

to result. I will simply be asking counsel to draft a document which reflects orders and decisions that I have made.