

IN THE FAMILY COURT AT WEST LONDON

West London Family Court,
Gloucester House, 4 Dukes Green Avenue
Feltham, TW14 0LR

Date: 3 May 2024

Before :

HIS HONOUR JUDGE WILLANS
(Sitting as a Deputy Judge of the High Court)

Between :

SP

Applicant

- and -

(1) WR

Respondents

(2) J (by her Children's Guardian, Ms Melissa Ganser)

The applicant appeared a litigant in person
Ramanjit Kang (instructed by **Sella Solicitors LLP**) for the **1st respondent**
Helen Monah (instructed by **Atkins Hope Solicitors**) for the **2nd respondent**

Hearing dates: 8-12 April 2024, 3 May 2024

JUDGMENT

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.

His Honour Judge Willans:**Introductory Points**

1. This judgment concerns J, a 10-year-old girl (“the child”). It follows a final hearing conducted over 5 days. At the conclusion of the hearing, I adjourned to consider my decision. This document sets out my decision and the rationale behind the same. My conclusions have regard to the written documentation placed before me; the live evidence¹, and; the submissions of all parties. I will not reference all of all this within this judgment but I keep it all in mind. I have provided for a handing down hearing as set out at the conclusion of this judgment and for other ancillary matters. It is likely this judgment will be published. I use the labels applied in footnote 1 and elsewhere within this bundle. No discourtesy is intended. Participation directions applied in this case. A screen was used throughout the hearing and the Court examined the mother on behalf of the father.
2. A significant element of the evidence in this case was in video and audio form. Whilst some of this was relatively mundane and uncontroversial in form others were significant. I particularly note the following which will come to be referred to elsewhere in this judgment. The labels I attach are largely not my own but reflect the label given by one or other party:

	<i>Date</i>	<i>Format</i>	<i>Title</i>	<i>Party</i>	<i>Length</i>
1(a)	18.10.20	Video	'Master 'child' video'	R	23min 53s
1(b)	18.10.20	Video	'child' confession video	A	19min 58s
1(c)	18.10.20	Video	'TP lie'	A	1min 10s
1(d)	18.10.20	Video	'child' video 123	A	2min 35s
1(e)	18.10.20	Audio	'Audio 1'	A	1min 13s
2	18.12.20	Video	'You tube live stream'	R	1hr 7s
3	25.12.20	Video	'Christmas 2020'	R	9min 52s
4	18.8.22	Video	'NK attending home'	R	47s
5	19.8.22	Video	'NK zoom call'	A	19min 1s
6	26.9.23	Video	'bro' zoom call'	A	18min 29s
7	27.1.24	Video	'ring doorbell'	A	2min 58s

The Issues in the Case

3. There are three central issues under consideration: (a) The child arrangements for the child - who she should live with and the time she should spend with the other parent; (b) Should the existing prohibited steps order prohibiting the removal of the child from the jurisdiction (as far as it relates to the mother) be discharged? Should the Court permit her travel to country XX (a Non-Hague Convention Country²) on a temporary basis; (c) Should I make an order under **section 91(14) Children Act 1989** prohibiting future applications without permission?

Background

¹ SP (“the father”); WR (“the mother”); (“NK”), and; Ms Melissa Ganser (“the guardian”)

² XX is an accession country to the Convention but this has not been ratified by the UK

4. This case demands a somewhat longer background history than I would normally wish to give. As will be outlined below this application is the 9th application issued concerning the parties/child between 2015-2021. Save for a period of about 20 months the parties have been litigating before the Court consistently since October 2015. As a result, the background history in this case largely sits on the litigation history.
5. Both parents are UK citizens. The father is aged 52, the mother 47. The child will turn 11 in the near future. The mother has a strong connection with XX and both lived and was educated there between the ages of 3 and 17. She then returned to this country and has now lived here for around 31 years. She told me that she has no citizenship status in XX and would need a visa to spend time there. She does not dispute she has strong cultural connections to that country.
6. [.....]. It appears that but for a period measured in months in late 2012 the parents have had little if any inter-personal relationship save as has been shaped within these proceedings. The parties agree the relationship ended when the mother informed the father, she was pregnant. The father was married at the time of the conception of the child. It is clear the parties had a problematic meeting at a religious venue about a year after the child was born. The father alleges the mother caused difficulties with his wife leading to their marriage breaking down which was 'devastating for him' [917]. There was a CSA process and DNA testing which confirmed paternity. It was after this that the father made his first application to the Court. The father is now in a relationship with D. The mother lives with her own mother and sister (from time to time in the case of the latter).

October 2015 - May 2016 [ZW15P00850]

7. The father made an application for child arrangements. A section 7 report was directed by the Lay Magistrates and at a final hearing on 3 May 2016 the Court ordered the child should live with the mother and structured a progressive contact order based on the father completing an anger management course. The Court made a prohibited steps order against the father relating to removal of the child from the mother save during contact.
8. It is suggested the mother was expressing a fear that the father would 'kidnap' the child. The father indicates he undertook an anger management course but that this was not accredited and as a result the mother did not accept it. I heard evidence as to the mother only permitting photographs at contact if the child were in a pose which could not be used to obtain a passport.

May 2017 - July 2020 [ZW17P00630 / ZW17P01103 / ZW19F00121 / ZW19P01443]

9. The applicant applied to the Court [ZW17P00630]. He had not commenced an anger management course but had found an alternative course which was approved. In an order dated 6 September 2017 the Lay Magistrates noted the father had undertaken 6 of 9 sessions with respect to anger management. The mother raised issues as to inappropriate communications from the father and the Court expressed concern as to the impact of supervised contact commencing without further input from CAFCASS. A further section 7

report was ordered and a DRA fixed. By the DRA, the mother had applied for permission to remove the child from the jurisdiction [**ZW17P01103**] and the case was reallocated to Circuit Judge level. The Court accepted undertakings from each party: (a) in the case of the father not removing the child from the mother, and; (b) in the case of the mother to not remove the child from the jurisdiction.

10. The DRA came before me on 4 May 2018. A s7 report was available. I directed a Child Contact Intervention (CCI) followed by supervised contact pending further consideration. In the light of the fact that the removal was intended to a Non-Hague country I re-allocated the case to a s9 Judge. I gave directions as to the obtaining of expert evidence in such regard; as to the father's proposed claim for wasted costs; an updated report with respect to anger management, and; an addendum s7 report. I dealt with the application for wasted costs on 2 October 2018. I dismissed the application and ordered the father to pay the mother's costs of the hearing.
11. On 7 November 2018, the case came before HHJ Jacklin KC (sitting s9). The mother was granted leave to withdraw the application to permanently remove the child from the jurisdiction. The Court ordered interim supervised contact with the father and adjourned the matter part heard. On 7 February 2019, the matter returned part heard. The mother agreed to parental responsibility for the father. The Court heard live evidence and found the father had adequately addressed the issues raised in the s7 report and did not need further therapy; that the mother would continue to expose the child to anxieties about the father and that she needed to take steps to move on beyond past events; that the poor parental relationship exposed the child to a risk of harm, and; that it was in her interests for contact to move on in a more natural form. The Court suggested mediation. The mother sought an opportunity for a summer holiday overseas but this was refused by the Court and the undertaking was repeated not to remove from the jurisdiction. Ultimately, the Court ordered contact moving to overnight unsupervised contact from June 2019. The application was further adjourned to consider the extension of contact and the mother's request to be released from her undertaking with respect to travel.
12. In relation to the proposed removal the father claims the application was only withdrawn after 13 days of the hearing before the mother then made an application for a holiday to XX which took a further 7 days before a Judge refused the same. He told the psychologist he had agreed to her travelling to France but the Judge disagreed. The Court file does not support this account of the litigation. There certainly has not been either a 7- or 13-day hearing and it is clear the mother withdrew both applications without a Court decision. It is right that in the interim the request was refused but it is clear there has never been a reasoned consideration of these applications.
13. On 15 August 2019 I heard an application issued by the mother under the Family Law Act 1996 [**ZW19F00121**]. The mother was seeking an injunction and asking for contact to be suspended on the basis of the issues she raised. The application was heard on notice and resolved without findings or admissions at the first hearing on cross undertakings as to behaviour at contact handovers. I refused to suspend contact but enforced a clear structure around contact.

14. On 7 September 2019, the mother is said to have obstructed contact by turning up at the school prior to the father attending for contact. This was the first occasion on which the father was to collect from school. The mother told me she had attended prior to the end of school to deliver items for the child to have overnight when she became aware the contact would proceed (it appears she had wanted the contact to be suspended but the Court had said it must proceed). She had not in fact seen the child on this occasion and contact had taken place.
15. On 9 September 2019, the matter returned to HHJ Jacklin KC. The order makes clear the parties had made some agreed progress on contact but the Court was concerned as to a high level of animosity between them. The Court made a final child arrangements order which provide for regular unsupervised weekend staying contact and the sharing of holiday time. The Court did not have time to hear the mother's request to travel overseas and be released from her undertaking. The Court replaced her undertaking with a prohibited steps order prohibiting removal from the jurisdiction and listed a final hearing in March 2020. In a follow-up direction order on 9 September 2019 the father was given permission to file evidence setting out the basis on which he contended the country XX could not be relied upon the adhere to the requirement of the Convention on Child Abduction.
16. In October 2019, the mother made her application to be released from her undertaking and to travel temporarily to country XX in summer 2020 [**ZW19P01443**]. She also wanted the father to remove posts from the internet and to stop uploading posts about her or her legal representatives. The matter did not return to HHJ Jacklin KC. Covid intervened and the March hearing was vacated. Ultimately, the parties were next before DDJ Wicks on 21 July 2020. His order explains the mother was not seeking to proceed with her removal application in the light of the Covid lockdown. The order noted parental relations were improving but there were remaining issues. All contact issues were resolved in line with the earlier order of HHJ Jacklin KC.
17. There is a dispute between the parties as to the impact Covid had on contact. It is agreed visiting contact was suspended during the first Covid lockdown. The mother says this was because she was shielding due to health vulnerabilities. The father makes the point that judicial guidance made clear that Covid need not prevent travel for child contact. The mother's response is that this was not because of Covid but as a result of her own personal vulnerabilities. She says contact started once medical guidance changed. I understand this was in about July 2020.

18 October 2020

18. On the Friday prior to that weekend contact the child attended school and reported being assaulted by her father. The school activated a safeguarding process but the child appears to have then said this had been a dream not an actual event. As a result, it seems there was no basis for the contact being stopped. The child went for contact with the father. Over that weekend the father filmed a number of videos in which the child is seen to be questioned about these matters. I reference the same in the schedule above [**videos 1(a) to (e)**]. On the final day of the contact the father called the police [**see 1002-1017; CRIS report**]. In evidence

he told me he imagined he would either (a) be told to retain the child pending investigations; or (b) told there was no reason not to return the child. The child did not repeat the matters filmed by the father and expressed concern as to the father's behaviour. The police became concerned and removed the child from the father and returned her home. As a result, there was a safeguarding investigation [834-859]. This appears to have concluded in January 2021. The local authority helped with a written agreement but whilst the father signed the same the mother did not. There is a dispute as to whether the father's actions at that time explain her position. The mother claims the father was messaging her in a manner which went against the agreement. He disputes the same.

19. The father is concerned as to two allegations of child abuse raised against him by the mother. The first relates to the mother expressing concern as to the child returning from contact without underwear whilst at the same time permitting the child to sleep without underwear. The mother makes clear she is in no way suggesting this was sexual impropriety. The second relates to the allegations made by the child to the school. The mother does not seek to establish the truth of these allegations and accepts the account given of this being a dream. I am asked to consider a 'YouTube' live stream from 18 December 2020 in which the father references the mother and child [video 2]. The father denies he was responsible for uploading the video. On Christmas Day 2020 and during the currency of this investigation the father attended the mother's home [video 3].

March 2021 - to date [ZW21P00361 / ZW21P00363 / ZW21P00749]

20. On 5 March 2021, the father applied for the child to live with him [ZW21P00361] and to enforce the existing child arrangements order [ZW21P00363]. The applications came before the Lay Magistrates on 16 April 2021. They recorded an agreement as to interim indirect contact and re-listed the matter before a District Judge with appropriate directions including a police disclosure order. At the hearing on 9 August 2021 the father asked the Judge to immediately return to the final order of HHJ Jacklin KC. The mother proposed a return to supervised contact in a centre. The issue of recordings being posted online was once again raised. The father was ordered to take all steps to remove any videos relating to the child from the internet. A section 7 report was ordered and DRA fixed. I heard evidence as to the mother 'wrongly' removing the child from school on 20 March 2021 when the father planned to attend school to remove the child for contact. I will need to consider this but the mother's case is that this happened on a day after the father had applied to the Court to enforce the DDJ Wicks order and prior to the First Hearing of the application. As such it was wrong for the father to propose to action the contact by turning up and taking the child.
21. On 25 January 2022 and 'by consent' a District Judge gave directions on the papers in the light of the parties having received the s7 report. The father agreed to reflect on his zoom calls and consider how he could make the child the centre of arrangements; the parties agreed to consider whether counselling would assist them in managing their feelings towards each other, and the father agreed to seek out and engage with a parenting programme. The Court continued the interim indirect contact and appointed a guardian to represent the child. At a hearing on 8 March 2022 a Recorder directed the appointment of a

psychologist (Dr F) to undertake a child and family assessment. The father sought progress in contact which was opposed by the guardian pending the expert report.

22. I heard evidence as to the mother's assessment interview and the fact this appears to have been disrupted by workers in her house. She told me the workers had been organised by her mother.
23. On 29 April 2021 [ZW21P00749] the mother applied seeking an interim suspension of the 2020 contact order and a removal of the prohibited steps order. All matters came before a Recorder on 3 August 2022. It was agreed the mother would consult with her GP to confirm the father was entitled to obtain relevant information about the child. The mother also agreed for the father to be put on the child's birth certificate on the basis of his assurance that he would not seek travel documents for her or seek to change her name. The Court varied the PSO to allow a holiday to Scotland.

August 2022

24. Supervised contact was planned by the guardian for the father and child on the child's birthday. Unfortunately, this had to be cancelled at short notice due to industrial action on the transport system and the guardian could not make the appointment. On the same day NK attended the mother's property without notice and sought to both meet with the child and deliver presents. The mother refused entry [video 4]. A 'Zoom' contact session took place the next day. The child made mention of NK's visit spoiling a birthday party that had been planned for her that day. The father questioned the child in such regard [video 5]. The contact is ended when the child terminates the call. The father claims the recording demonstrates the mother interfering with the contact. She disputes this is the case.
25. On 5 June 2023, a Recorder gave directions towards a PTR and final hearing. Additionally, the Recorder ordered progressive contact towards unsupervised community visiting contact. At that hearing the mother sought to have the prohibited steps order varied to permit her to travel overseas for a holiday. This was opposed by the father and guardian and refused by the Court.
26. On 18 June 2023, the father and child had contact. There is a dispute as to whether the child passed the father a telephone number and if so the exact telephone number. The father alleges the mother later messaged him using this number in an abusive manner. On 12 September 2023, the father had contact with the child. He was able to leave the centre for part of the contact and claims the mother scratched his car during this period. She denies the same. On 26 September 2023 there was a zoom contact between father and child. The child references the father as 'bro' to which the father takes exception. He seeks an apology and when one is not offered, he terminates the call [video 6].
27. On 23 November 2023 I heard the PTR. I gave directions for schedules of allegations and vacated the existing final hearing fixture which was listed before a DDJ but retained part of that hearing to consider interim contact pending the final hearing. I fixed a repeat PTR and relisted this final hearing before me. On 30 November 2023, a recorder heard the interim

contact hearing. After submissions, the Recorder ordered progression to overnight weekend contact from 13 January 2024. The mother had opposed this but it was supported by the guardian and after some initial reluctance also accepted by the father.

28. The father claims the mother is in breach of a direction to provide medical evidence relating to both (a) litigation non-compliance, and; (b) the events of 27 January 2024. The mother accepts she has not sent this to the father but claims to have provided disclosure to the guardian and to the Court.
29. On Boxing Day 2023 the father called the police expressing concern the mother had left the country. The police attended the property, spoke to the mother, and confirmed she had not left the country. Overnight contact was due to take place on 13 January 2024. The mother claims it could not happen as safeguarding checks were outstanding and the father was both informed about this and agreed this was required. In any event the mother claims the child was unwilling to go as the father had been abusive following the last contact on 30 December 2023. The father argues this was the mother obstructing contact. I have previously expressed the view that I do not read the orders to require safeguarding as a prerequisite to contact on this occasion. Contact was due to take place on 27 January 2024. On the day prior to this the mother claimed she was hospitalised and had to cancel the contact. There is a dispute between the parents as to whether this is (a) true, and; (b) a justification for cancelling contact. On that Saturday, the father attended the mother's home [video 7]. He claims whilst outside he heard the child shout to her mother not to 'kill her'. He called the police who attended but took no action having spoken to the mother and child. The father says the mother opened the door holding a large knife. The mother denies making any threat to the child or holding a knife.
30. On 8 March 2024 I heard the PTR. I refused the mother's request to suspend the contact provisions pending the final hearing. I replaced the existing guardian with Ms Ganser and gave some additional directions including participation directions. By this point it was clear the mother was seeking to have the prohibited steps order discharged and wished to be able to travel to country XX. The matter was therefore listed for me to hear with the approval of the Family Presiding Judge on a s9 basis.
31. At the hearing, the mother expressed firm opposition to ongoing overnight contact and stated the father had bail conditions which prevented the same (this related to a clause that prevented the parents being in contact). Although the same were not available at the hearing, my understanding was that they did not prevent contact. My understanding was correct. In any event the mother complied with my order and the overnight contact took place. The father took the child to Brighton and there are a number of issues arising out of the contact. Following the contact, the child has expressed strong opposition to seeing her father. She has expressed an intention to self-harm to her school and on the guardian's advice it was recommended she attend hospital. The mother duly took her to A&E. These circumstances are a matter of dispute. The child was referred to counselling. The next contact on 23 March 2024 did not happen.

Legal Principles

32. The touchstone to these proceedings is that the child’s welfare is my paramount concern. In assessing her welfare, I will have consideration to all the circumstances of the case but will use the ‘welfare checklist’³ as a structure for such assessment. In approaching the issues in the case, I will continue to bear in mind the presumption that her welfare will be advanced by having a relationship with both parents so long as the contrary is not shown to be the case.⁴ I will only make an order if one is required.⁵
33. There are many matters upon which the parents disagree and I will need to decide who is correct. In reaching my conclusions I will require the party making the allegation to prove this is correct. They will do so by persuading me that this is on balance the case and that the event is more likely than not to have occurred. If they do so I will treat the allegation as being true. If not, I will ignore it, although I may be called upon to assess why the allegation has been made. The party facing the allegation has no to disprove it. I will consider each point separately but I am entitled when considering a specific point to have regard to my conclusions reached elsewhere. I may reach the conclusion that one or other (or both) parties have not been honest with me in respect of a specific point. I am entitled to reflect on this when considering their evidence elsewhere but I must be mindful that a witness may lie for a whole host of reasons and that dishonesty in one regard should not be automatically assumed to suggest generalised dishonesty. To be probative such dishonesty must (i) be deliberate; (ii) relate to a significant issue, and; (iii) not be told for some other reason which does not point to guilt.⁶
34. In this case I am asked to give permission for travel to a Non-Hague Country. As with the question of general child arrangements this is a question answered by considering whether such a trip is in the best interests of the child. However, the fact of Non-Hague status requires the Court to reflect on the associated risk of abduction and the absence of a speedy mechanism for return in the event of the same. In such cases it is incumbent on the Court to consider the following matters: (i) the magnitude of risk of breach of the order (i.e. wrongful retention overseas/nonreturn) if permission to travel is given; (ii) the magnitude of the consequences of breach if it occurs, and; (iii) the level of security that may be achieved by building into the arrangements all of the available safeguards.⁷
35. The guardian asks me to consider the making of a section 91(14) order. I bear in mind authority in this regard⁸ and I also have regard to the more recent changes in respect of such provision as a result of *s.91A and Practice Direction 12Q Family Proceedings Rules 2010*. I bear in mind PD12J in respect of cases involving issues around domestic abuse and particularly §35 which sets out the considerations the Court should have when considering whether to make child arrangements in any case in which domestic abuse is found to have occurred. I take into account the extensive definition of domestic abuse found within that practice direction.

³ s.1(3) Children Act 1989

⁴ s.1(2A) *ibid*

⁵ s.1(5) *ibid*

⁶ See *R v Lucas* [1981] QB 720 and *Re A, B & C (Children)* [2021 EWCA Civ 451 per Macur LJ at [54-56].

⁷ See *Re R (A Child)* [2013] EWCA Civ 115 per Patten LJ at [25]

⁸ *Re P (section91(14) Guidelines) (Residence and Religious Heritage)*[1999] 2 FLR 573 per Butler-Sloss LJ

My assessment of the witnesses

36. I have undertaken this part of the process with care. I am mindful of the significant emotional stress impacting on both of parents and the additional impact of the proceedings being so lengthy in nature. From the father's perspective his relationship with his daughter has been significantly obstructed notwithstanding a battery of court orders. I have to keep in mind the frustration that such a situation would create and the potential for this to have a meaningful impact on his presentation. There is a danger of justified frustration being improperly characterised when assessed within the sterile confines of the Court room. Equally I understand the mother's case to focus on the continuing misconduct of the father and I must be alive to the impact on an individual of such behaviour, and particularly so where that meets the description of being domestically abusive whether that abuse is at an emotional or physical level. Such abuse can cause an individual to lose confidence in themselves and can lead to decision making which may be viewed objectively as questionable but can be seen to be explicable in the circumstances subjectively faced by the individual. In conducting this assessment, I am mindful of that line of thinking encapsulated in decisions of Leggatt LJ⁹, however, in this case I have found this aspect of the case to be informative and a matter which assists me in shaping my conclusions. In reaching this position I am consistent with the guidance of Peter Jackson LJ¹⁰ at [25] where he observed:

No judge would consider it proper to reach a conclusion about a witness's credibility based solely on the way that he or she gives evidence, at least in any normal circumstances. The ordinary process of reasoning will draw the judge to consider a number of other matters, such as the consistency of the account with known facts, with previous accounts given by the witness, with other evidence, and with the overall probabilities. However, in a case where the facts are not likely to be primarily found in contemporaneous documents the assessment of credibility can quite properly include the impression made upon the court by the witness, with due allowance being made for the pressures that may arise from the process of giving evidence. Indeed, in family cases, where the question is not only 'what happened in the past?' but also 'what may happen in the future?', a witness's demeanour may offer important information to the court about what sort of a person the witness truly is, and consequently whether an account of past events or future intentions is likely to be reliable.

But I do, as noted above, guard against applying too much weight on this feature of the case given the highly charged atmosphere of these contested proceedings. Finally, I have regard to the fact that pursuant to participation directions all questions of the mother on behalf of the father were asked by the Court on his behalf. I appreciate this creates a sense of imbalance in that the father was professionally examined in a more combative manner than was the case for the mother. This may lead to the risk of the mother being viewed in a more positive light. However, I would note the following: (i) I consider the questioning of the father was both fair and appropriate, and; (ii) whilst I received 104 questions from the father subject to the removal of a very modest number, which were essentially duplication, and to some structural rewording I asked all of the questions.

37. My assessment of each witness is as follows:
- i) **The guardian:** I found her to be a straightforward professional witness as the Court would expect from an experienced CAFCASS guardian. She gave clear and reasoned

⁹ See *Gestmin SGPS SA v Credit Suisse (UK) Ltd* [2013] EWHC 3560 (Comm) (as Leggatt J) and *SS (Sri Lanka) v SSHD* [2018] EWCACiv 1391

¹⁰ *B-M (Children: Findings of Fact)* [2021] EWCA Civ 1371 at

answers. She betrayed no dogmatism in her approach and was appropriately balanced in her answers and mindful, where appropriate, as to the limits of her evidence. Whilst I acknowledge the criticism arising from the late stage of her appointment, I could find nothing in her assessment or review of the evidence to suggest she had not given this case the time and consideration it required.

- ii) **NK:** My assessment is significantly informed by my analysis of the single point of evidence on which he attended. Whilst he was entirely polite and respectful in his manner, I found him to be a witness who was shaping his evidence to meet the needs of the father. Ultimately, I found him to be entirely partial and a witness on whom I could place little weight
- iii) **The father:** I found the father to be an unimpressive witness. It is striking that he holds himself out in as a professional communicator yet he appeared wholly unable to follow the clearest instructions and requests from me to give his evidence in a direct and focused manner. He consistently responded in a discursive manner and I ultimately reached the conclusion this was evasive in character with him shaping his responses to fit his narrative rather than the questions being put to him. By the conclusion of his evidence, I was no doubt he was choosing to repeat his narrative as he did not want to answer the questions being put for fear they would damage his case. The father also appeared unable to contain himself at times. Whilst giving respect to the emotion of the hearing he at times felt compelled to stand when giving evidence (although I had not required him to do so) and often acted out in somewhat extravagant manner when giving his evidence. I did not find this helpful. The role of a witness is to provide focused and direct answers not to engage in rhetorical flourishes. The father seemed unable to appreciate this when this point was drawn to his attention. Additionally, I was also struck by elements of contradiction in his evidence and I was far from impressed by the manner in which he drip fed information into the hearing. I have other concerns in his regard which are more substantive in nature and which will be addressed in my analysis below.
- iv) **The mother:** I formed a more positive assessment of the mother. She appeared to consider the questions with care and provided direct answers as directed. In reaching this assessment I bear in mind it was the Court asking the questions but I nonetheless formed the view she was better able and willing to address all points put to her. She did not give the impression of being evasive. She did though appear nervous in giving her evidence and gave me a strong sense of being somewhat overwhelmed by the process she has become somewhat trapped within.
- v) **Additional witnesses:** The father filed statements from his partner [D] and his sister [S]. Neither witness came to Court. Whilst I am able to place such weight as I deem appropriate on such evidence on the facts of this case, I consider I should not rely on this evidence unless otherwise supported. No real justification was given for their absence other than that they did not want to be involved.

Allegation schedules

38. Each party has filed schedules relating to allegations they wish to put before the Court. These are extensive documents and I will summarise in the following schedules. In the case of the father: **[749-759]**:

Item	Date	Detail
1	Jan 2015	Hostility from the mother and obstructing contact
2	18.6.23	The child giving a telephone number at contact [§26 above]
3	2017-present	The mother's lies relating to her request to relocate or travel; having workers in the house during her assessment; lying about being hospitalised [see §29]
4	2014-present	[Mother] has lied to the courts about: whether a child can be with a father alone under her religion; about her planned move to XX; her hospitalisation. She has consistently broken Court orders.
5	2019-20	Mother has falsely accused father of child abuse twice [see §19]
6	12.9.23	[Mother] scratched car at the contact centre [§26]
7	7.10.23	[Mother] broke travel restrictions and went to Scotland
8	2020-24	[Child] still shares a bedroom with [mother] at the age of 11
9	30.10.23	[Mother] provided statement late to delay case and has not provided the directed medical evidence
10	2022-24	[Mother] did not disclose child's middle name until forced to provide birth certificate
11	2014-2024	[Mother] refuses [father] name to be on the birth certificate
12	2014-2024	[Mother] refuses [father] being registered at [child's] GP
13	2019-24	[Child] started menstruation early because of the stress caused by [father] not being in her life. [Mother] has refused to update [father] on all examination and test results
14	During case	[Mother] has contacted [D] and threatened her in 2023 & 2024
15	During case	[Mother] contacted witness NK and abused him.
16	During case	[Mother] contacted [S]
17	13.1.24	[Mother] stopped first overnight stay breaking the court order [§29]
18	27.1.24	[Mother] stopped contact lying about being hospitalised [§29]
19	27.1.24	[Mother] threatened to kill [child] [§29]
20	27.1.24	[Mother] answered door of house with a very large knife [§29]
21	2008-24	[Mother's] mental health is severely damaged
22	19.5.22	Various quotes/excerpts from Dr F report

In the case of the mother **[760-763]**:

Item	Date	Detail
1	Oct 2020	The Father's behaviour was the catalyst for these court proceedings and contact had been proceeding as ordered by DDJ Wicks as ordered.
2	Oct 2020	Father's contact on 19 October 2020
3	2014-15 (sic)	Father's contact on 19 October 2020
4	Jun 2017 (sic)	Father's contact on 19 October 2020
5	Oct 2020 – throughout proceedings	Child has reported father told her to lie
6	Dec 2020	Father placing videos on internet / social media
7	3.6.23	F forces [child] to do things/challenges what [child] has said to the Guardian
8	9.7.21	Father is insensitive to J's needs
9	14.8.21	F is hostile, aggressive, and dictatorial towards mother; has traits are harmful to [child], has an inability to put [child] first and draws her into

		<i>arguments/ challenges her about lying or being forced to lie/ made to lie by Mother</i>
--	--	--

Evidence and Resolution of Factual Disputes

39. I do not intend an attempt at summarising all of the evidence received. A more sensible approach is to deal with the multitude of allegations and disputes by reference to the evidence I have heard and determining each as I proceed. This will mean I do not summarise the less contentious evidence (and to some extent disputed matters which are simply not relevant – see child’s middle name) but I consider this is a proportionate and satisfactory way in which to approach this case. I will attempt to broadly take a chronological approach as set out in the preceding section. I will also review further evidence when I turn to my welfare analysis. Taken together these components will properly address all matters of relevance. In travelling through this chronology, I will, where possible, identify the resolution of those factual matters set out in each parent’s schedule.
40. My assessment must have regard to the decisions previously reached by the Court. They cannot be simply placed to one side. Ultimately however I have formed my own impression on the evidence and I consider I have been able to place some of the historic conclusions into a modern assessment informed by all of the information now available. I am in little doubt I have the broadest understanding of this relationship put before the Court to date.

7 September 2019

41. This relates to the mother attending the school on the day of the first school pick up for contact. I am not persuaded this merits any specific finding on the evidence received. It seems clear the mother did attend after it was made clear the contact was to proceed and did so to drop off overnight items for the child. However, I accept she did not see the child and the contact proceeded.

Covid contact (March 2020 on)

42. I remind myself as to the guidance offered at that time that parties were entitled to leave their homes to facilitate contact arrangements. In this regard the father is correct. However, the mother’s point is a different one. She was shielding due to a specific medical vulnerability. I accept this. I heard evidence as to her suffering from asthma and this is plainly a respiratory condition which would have raised concern at that time. I also heard evidence from the father that he was volunteering during this period delivering parcels. It is not difficult to see how a combination of these factors would have impacted on contact. The guidance makes clear any decision making in this regard would be subject to later Court oversight. Having applied this oversight, I can understand the father’s feelings on the subject

but the circumstances do not warrant criticism of the mother. In any event I am satisfied the mother modified her position when the guidance changed.

October 2020

43. The following points are not in dispute and justify being noted at outset. There is no doubt the child did speak to a teacher suggesting her father jumped on her and strangled her. The mother does not seek to prove this allegation, the father denies the same and there is no supporting physical evidence, although the same might be expected. There is also no question the child within a brief period of time was making clear this was a dream not an actual event. It seems clear those involved in initial safeguarding accepted this revision and took no steps to stop the contact due to happen that day. What is less clear is as to whether the child had a motivation to mislead the school or exaggerate a genuine but innocent event. There is within the evidence a range of occasions when the child can be seen to give an account which does not chime with the supporting evidence and appears to be a possible exaggeration of events. I enquired with the mother as to her daughter's personality in this regard but she denied there were any issues. However, by the end of the evidence she did appear to accept there were occasions on which the child had given an incorrect account. It seems to me the options for the Court are as follows: (i) the child gave a true and genuine account of an assault; (ii) the child gave a wholly misleading and untrue account for reasons unrelated to the mother; (iii) the child gave a misleading account at the instigation of her mother; (iv) the child was misunderstood in the first instance and this was cleared up on further consideration. As should be clear I am discounting option (i). In any event the contact proceeded. It might be thought this somewhat undermines option (iii) for if this was said at the instigation of the mother and presumably to stifle contact then it is surprising she did not make more of it.
44. The contact proceeded that weekend. On the afternoon of the final day the father recounts the child speaking to him and in the course of this he made the videos and audio at 1(a) to (e). I have viewed and listened to these a number of times. In essence they amount to a process of the father recording the child whilst questioning her and obtaining answers as regards various allegations said to have been made by the child. The child is at times distressed and at other times demonstrates little emotion notwithstanding the content of the conversation. The father relies on this evidence as proving the mother told the child to say these things which were untrue.
45. The father then called the police to the house [1002]. The police felt the account being given was rehearsed and did not feel natural. The police were shown the recordings and were concerned as to leading questions being asked and the child being prompted. The father appeared to tell the officer that one of the videos was in fact taken the night before. The police spoke to the child alone. She reported her father 'wants to keep her there for 3 months' and that she had been told not to tell the police this information. She commented that her father does not punish her physically but he shouts, 'very loud.' The child begged the officers to stay with her to ensure she was returned to her mother. She said she had

been panicking about this all night. She told the officer her father had told her he would not drop her back to her mother and would keep her for three months. She told the officer that things written about her mum were not true and that she had been 'auditioned' so she knew what to say. At a later point the father is reported to have become irritated at being separated from the child. He is said to be 'visibly irate.' The father is then seen to listen into the conversation with the child and is told not to do so. The father is said to then become aggressive and is heard shouting at the officers. The police then return the child to her mother.

46. The father considers this evidence to be compelling and provides a 'cut through' insight into what has been happening. He considers it establishes the role of the mother as an instigator of false allegations. In presenting this evidence the father appeared to have no sense that it might be viewed in a quite different way by an objective viewer.
47. I have watched these videos on more than one occasion. They cause me real concern. They are troubling not because they prove misconduct on the part of the mother but rather because of what they appear to say about the father's insight into his daughter's emotional wellbeing and his prioritisation of his own needs (to prove his innocence) over those of his daughter. There is a well understood structure used when interviewing a child referred to as Achieving Best Evidence. The purpose of this guidance is to ensure reliable evidence is obtained. The guidance recognises the very real risk if a careful and structured approach is not taken. It is well understood that a full recording of all interactions with the child is required and there is focus on open and non-leading questions. Children will often provide false evidence if they feel this pleases the interviewer or if they feel there is a requirement on them to give certain information. As such interviews should be free flowing.
48. Whilst I can understand why it is that the father has not followed such guidance this does not change the fact that the end result is contaminated by his failures. I note the following: (i) I clearly do not have a full account of this process. It is evident there was some level of interaction prior to the recording. This raises the risk that the process has been staged as suggested by the police or that there has been 'auditioning' as suggested by the child. Contrary to the father's evidence the child suggests the process continued over more than 1 day; (ii) The questions are leading and highly repetitive. There is little benefit in getting information to be simply repeated as one cannot say whether the subsequent account is a consequence of the earlier account having been given or for some other reason. At points the father presses the child to provide information in a most unhelpful manner; (iii) The father introduces loaded observations around 'bullying' and the mother 'persuading the child.' The fact the child then uses these concepts is of no probative value. By the end of the recording the father is directing the child to speak of her mother as a 'bully;' (iv) I am troubled by the child's emotional state. It appears she is highly distressed at the start of the process and once again at the end. In between she appears to lack any meaningful emotion. I am concerned this supports the notion of this being staged. There is no sense in her answers that the child is reliving an actual experience. (v) I simply cannot know when the 'three lies' recorded in the video were first discussed or what was said and done at that time. There is a real danger of the father having staged this process to obtain information he

has already provided to the child. Plainly this fundamentally undermines any benefit from the same; (vi) At times the father can be seen to be in a somewhat elevated emotional state. This is unhelpful in that it may have caused the child to shape her answers to fit with the father's wishes. At times he speaks about his own feelings and this has the obvious potential to impact on the information he receives.

49. I consider I cannot place any material weight on these videos. They are undermined by both the manner in which they were taken but also by the separate surrounding evidence which calls into question whether they amount to reliable evidence. The child gives the police a clear account of this being staged by the father and this concern is shared by the police. Having viewed the video, I agree with this assessment. The problems with the process undertaken by the father are on their own so significant as to reduce any value that can be obtained from the recording.
50. Further I have the account given by the child of being told she would be kept by the father for 3 months. It is difficult to reconcile this report with the father's case of the child volunteering the information and of him not making such a threat. Unfortunately for the father this goes some way to explaining why the child might say things to satisfy the father whether true or not. My views in this regard are supported by the evidence of the father. When I asked him as to what he thought might happen when the police attended he was clear he felt there was a real potential they would leave the child with him whilst investigations were undertaken. I am confident at some point the father said this to the child. This is why she reported the suggestion to the police. It is clear the father became irritated when the police did not support his approach and appeared to doubt his actions. I consider this reflects his growing understanding that the child would be returned home despite the evidence he had obtained.
51. Elsewhere I reference her obvious distress and her wish for the information not to be shared. The father seems to believe this is probative of the truth of what she is saying and cannot see it is as likely to be associated with her wishing for the lies she is telling the father not to be shared. It is depressing to hear her tell him that she loves both her parents and does not want to hurt their feelings. This observation entirely bypasses the father. In this section I have identified a solid foundation which may explain why the child came to say what she did without the same being true.
52. There is a further discrete point. On two occasions words occur which the father can be seen to use elsewhere. He refers to the mother as 'evil' on a number of occasions. The child uses the same word about her mother. Second, the father elsewhere describes himself as 'straight' (meaning honest). The child uses the same word when prompted by the father to describe him during the recording. This lends to the conclusion that this is unreliable evidence.
53. I am troubled by this process of recording. This was a wholly inappropriate process and served no benefit whatsoever. That the father could not apply a child focused approach and avoid the temptation he succumbed to is a concern. It paints the father as an individual who prioritise the litigation (and succeeding in the same) over his daughter's wellbeing. The

father has not, and I question whether he has the capacity to do so, reflected on this event and how this might have shaped in part his daughter's opposition to spending time with him. It should not require great insight as a parent or empathy with the position of a child to realise that child will seek to avoid contact which becomes an evidence gathering event.

18 December 2020

54. This is a video posted to 'You Tube' and which is accessible to anyone subscribing to the father's channel. It is ostensibly related to his business interests as a motivational speaker. However, at 1 hour 7 seconds he starts reporting the content of the videos discussed in the last section. He names the mother and comments that she will watch the video. By this point the content is purely related to this litigation. He calls the mother 'evil and twisted.' He refers to himself as a 'straight' man. He tells the mother 'she will pay the price.' He tells her to watch his eyes. He says, 'he is a bad enemy.' He talks about previous behaviour where he has attended the property of people that 'fuck with him' and 'kicked the door off the hinges.' He says he is an 'extreme character' and can easily come to the house and smash to the door off the hinges. Her car can be smashed up. It was wholly inappropriate for the father to discuss the case in the manner he did on this video. It is far from clear he had any meaningful control over those who could access the video. At the date of the hearing, it was still available to be viewed. The father gave me an explanation of some other unknown person uploading the video. I found this explanation unlikely. In any event it appears to have now been either removed or restricted as to accessibility. It is clear the father believed the mother would watch the stream. In such circumstances his words were threatening to her. Bizarrely the father criticised the mother for accessing this stream and placing the contents before the Court. I struggle to understand his complaint when in any event he stated he knew she would be watching the contents before proceeding to threaten her. The sense of the video is that the father has a high opinion of himself and he appears to look down on the mother. In the course of the hearing, he made a number of gratuitous references to his personal wealth. When listening to him my sense was that he was aiming this at the mother who lives under more financially strained circumstances. These various observations and actions bore a somewhat narcissistic quality.

25 December 2020

55. One week after the above stream the father attended the mother's home. In video 3 he is recorded and can be heard to repeatedly say 'where is my daughter' and 'don't hit my daughter'. He shouts to the child 'are you safe,' 'is your mum bullying you,' 'is your mother forcing you to lie.' He repeatedly bangs on the front door. The police are called. The police CRIS is at [995]. This attendance was in the midst of the single agency assessment and the father had only 7 days earlier spoke about how he might act. The sense is of the mother being anxious whilst talking to the police. Even allowing for a degree of frustration this was unacceptable. Once again, the father appears to have had no insight into how this might impact on the child. Further in the light of his comments during the YouTube stream his attendance would justifiably have caused the mother some level of concern. His words were entirely performative in nature and seemed to meet his own needs rather than those of his child.

20 March 2021

56. The father issued an enforcement application [108] and this was listed for first hearing. He then made clear he would pre-emptively attend the school to remove the child. This was in the period following the investigation. The mother acted to prevent this by removing the child. It seems to me this response was far from unexpected. The father had made his application and it was for the Court to resolve this disagreement. It had not arisen in a vacuum but out of the concerning events of October and December 2020. In the circumstances the mother was entitled to act as she did.

18-19 August 2022

57. On 18 August NK attended at the home with presents for the child's birthday. As noted above contact had been planned for this day but had to be cancelled. I received an explanation for this attendance which I found to be wholly incredible. Whilst it is clear NK is a close friend to the father and is described as an 'uncle' to the child he has no biological connection to her. The evidence as to his prior meetings with the child was somewhat unclear but it seems he had only met her on about three/four previous occasions. He had no relationship with the mother whatsoever. He told me he had been at the father's home a few days earlier and whilst there a children's party was taking place. The child was not present. Whilst in a particular room he saw some presents, some of which bore the name of the child. He decided it would be a nice idea if he took these presents and delivered them to the child on behalf of the father. He did not tell the father he was doing this. He thought this would be a 'nice surprise.' The father agrees he was not told. He then went to the home but the mother would not allow him access to see the child and he left the presents and went away. He told me the father was angry when he found out what had happened.
58. This was frankly incredible. After all the father was due to have birthday contact on that day and the contact was cancelled at the last moment. It is unclear on what basis NK would consider he had the authority to take the items (prior to that day) and deliver them himself. It seems likely if the contact had happened then the father would have delivered the presents. Yet I received no evidence as to any discussion when the father became aware some valuable items had been removed from his house. I am in little doubt NK attended the property at the direction of the father. It might be thought this was not the most concerning decision to take and it is clear NK in no way misconducted himself when at the property. Why then has the father denied having any involvement? The answer to this is tolerably clear. In a 'Zoom' call the next day (video 5) the child references NK attending and that this had spoiled her party. The father denies any involvement in the same. I consider it is likely the father has become trapped in this account and feels he cannot now give a truthful account. In my assessment there would be room for a truthful account of the attendance without this placing the father in a position of significant criticism. In the course of the hearing there was debate as to whether the attendance could have delayed attendance at the party. The father makes the point that the attendance was only for a relatively brief period. What he appears to miss is that the mother might have been unhappy to leave the property for some time after this not knowing if NK was in the vicinity.

59. This is not the most serious of the matters placed before me. But it does raise questions as to his decision making. Ultimately this contact session descends into a process of questioning as to what had happened and becomes somewhat confrontational. At 16mins 50secs he tells her he is tired of her disrespect. He then tells her she has been lying. The child terminates the call. The irony of all of this is that I find it was the father who was in fact lying to the child during this call and I have the sense she may well have been aware of the same. Once again this will have undermined the relationship between the two. It would have been much better for the father to own up to the decision and explain why he wanted her to get her presents on her birthday. If this had been his response then I would not be required to analyse this event within this judgment.

18 June 2023

60. This dispute relates to whether or not the child passed a telephone number to the father at contact. However, the real dispute is as to whether the mother subsequently used the number to send the father abusive messages. The father says this was the very same number handed to him and shortly after he received abuse when, it appears, he would not agree for the mother to travel overseas. The mother denies providing any number to be handed over in contact although she agrees an emergency number had been provided. She denies she has ever had the telephone number linked to the text messages or that she sent abusive texts.
61. There are two independent pieces of evidence which seem to contradict both parents. First, the contact note for the contact sessions does state the child passed a number to the father. However, the number recorded is not the number on which the father relies. It would seem that for me to accept the father's case I would have to accept the note but reject its content in this regard. I bear in mind there is little evidential value in the fact that the mother's name is associated with the text message on the father's phone. Plainly this arises because he has assigned her name to this number. But this does not answer the question as to whether the messages came from the mother. It is noteworthy this message is a stark lone communication between the parties. This is not a case in which I have been shown multiple communications of this type.
62. Whilst my assessment in this regard is balanced, I come down in favour of the mother. This is having regard to the following: (a) the contact note does not support this number; (b) the communication seems on balance to be outside the normal behaviour of the mother; (c) there are other aspects of the evidence which suggests a willingness on the part of the father to construct evidence in support of his case.

12 September 2023

63. The father alleges the mother scratched his car. He did not see her do it but saw her in proximity to his car. The mother denies scratching the door or being close to it. I do not consider the evidence permits me to make this finding given my general reservations as to the father's evidence.

26 September 2023

64. There was another 'Zoom' call on this day (**video 6**). The contact appears to be proceeding successfully when the father hears the child refer to him as 'bro.' The father obviously takes issue with this and the contact session then becomes a troubling conversation in which the father is demanding an apology. When it is plain the child is not willing to apologise the father calls her 'spoilt; 'stubborn;' and 'disrespectful.' At one point the father tells the child that her mother planned this to upset him. The father terminates the call. It is clear to me the child was not being disrespectful when she referred to her father as 'bro' whatever his feelings on the subject. It is disappointing he was unable to deploy an alternative strategy to move beyond this. Rather he became fixated in obtaining an apology at all costs. This can be seen to be a pattern of the father showing a lack of judgment and reflection and an inability to put himself into the shoes of the child. The father has only got himself to blame for the way in which this contact deteriorated. This was not the fault of the mother or child. But each of these experiences will have coloured the child's attitude to her father.
65. I should also note the father's contention that the recordings of such contact demonstrate the mother interfering with contact by sending messages to the screen with the aim of disrupting the contact. The mother denies the same and simply explains the noise one can hear is of innocent incoming messages during the course of the session. They are not from her. The child looks in the direction of the message as this is a natural response as the notification appears on screen. I accept her evidence as being both credible and likely. It further reinforces the level of distrust felt by the father to the mother that he would leap to this conclusion without any meaningful evidence to support his claims.

26 December 2023

66. The father called the police alleging the mother had taken the child out of the country without his consent. The police attended the property and spoke to the mother and were satisfied there was nothing amiss. It seems the father based his belief on a conversation with a neighbour although the details of this are far from clear. This was a further unwarranted report to the police. In the course of the evidence the father accepted it would be harmful for the child to repeatedly see the police. Yet he cannot appear to understand that he is responsible for this both by his actions and reports.

27 January 20204

67. This was to be the father's weekend for overnight contact. He was informed in advance that the mother was in hospital and would not be able to facilitate the contact. As a result, contact did not happen and that day the father attended the property and made allegations to the police. I am asked to consider whether the hospital visit is a ruse or genuine. The father has consistently raised an issue with regard to the mother's medical records not being disclosed to him and he challenges whether there was in fact any reason not to be facilitate contact. At the same time he alleges she has significant mental health issues.

68. On balance I prefer the mother's case. She has in fact provided medical documents to the Court and guardian and these do explain her basis for believing she would not be available for handover on the Saturday. She explained how there is no third party who she can rely on to facilitate the handover and this is partly due to the father's behaviour. She does not want to share private medical information with the father. I have previously explained to the father that the Court has received the disclosure and that there is no need for the documents to be disclosed to him. Whilst the father claims the mother has poor mental health it is far from clear the factual basis on which he bases this opinion given his limited relationship with her. Certainly, the medical documents do not relate to mental health concerns but more routine medical issues. They do not touch on child care. I made this clear to the father and made it clear I would keep this under review. However, in my view the father has sought to weaponise a level of ill health on the part of the mother and I can understand why she does not want to share with him personal information which frankly has no relevance to the issues before me. Further the mother gave evidence that she offered the following weekend in place of the lost weekend. The father did not challenge this.
69. Instead, he proceeded to attend the property and called the police alleging he had heard the child shouting to her mother 'not to kill her.' Again, I have a video of this attendance [video 7]. He claimed he attended with food for the child. He claimed he saw the mother and heard the threats and called the police. When the police arrived, the mother was at the front door and had a large knife in her hand. The mother denies these allegations. The mother alleges the father damaged her front door by kicking it. He denies this and points to the fact the police are not pursuing this allegation.
70. I entirely reject the father's account for the following reasons: (i) He does not have food in his hand. He appears to be holding a piece of paper (likely the Court order) and his phone; (ii) The video has audio. I can hear knocking at the door and other traffic sounds. Yet at no point do I hear the child shout out as claimed even though the father says he could hear this coming from the house; (iii) There is nothing in the father's conduct to suggest he has heard his daughter should as claimed. Having seen him on other occasions I am surprised that were this truthfully the case that he would not have been making a point about this whether by shouting to the child or in some other way. He gives absolutely no sense of being worried for her wellbeing; (iv) On balance it appears he does kick the door, both with the front (38secs) and heel of his shoe (41secs). I have seen photographs of a damaged lock. It is likely the father caused this. The police have not charged but they operate to a different standard; (v) As to the knife allegation. I have seen the still photographs and I can see the basis on which this allegation is made. The picture quality is poor and there does seem to be a long item in the mother's hand. However, on balance I am not persuaded as: (a) the quality is poor and I agree this may be a shadow rather than a knife, and; (b) the police have commented on this allegation and do not support the allegation of the mother having a knife. They certainly do not claim to have been scared as a result; (vi) However, even were I to have found the mother had a knife would this really advance the father's case? He does not seem to have considered the impact he must have been having on her to arguably lead to her picking up a knife when she opened the front door. In any event there is no

suggestion the mother was threatening in her behaviour. Given my rejection of so many parts of this account I am not satisfied in this regard either.

9 March 2024

71. I made clear this contact had to proceed when I heard the PTR. There was an issue as to bail conditions. I consider they did not preclude contact but I can see how the conditions might be interpreted in that way on a broad analysis. In any event the contact took place. Sadly, there were real issues. I am told the contact started with the child swearing at the father. The mother told me her understanding was the child swore in response to the father swearing at her. The father gives an account of the child being physically frightened as shown by her physical response in cowering away from him. Apparently, the child when asked expressed the wish to go home and watch videos. Instead, the father drove to Brighton. It appears throughout this journey there was no conversation between the father and child. It is difficult to imagine what the child understood would happen. The father claims matters improved in Brighton although she would not permit a nice photograph to be taken and was acting. He blamed the mother for sending the child with a phone and smartwatch and there being communications between the mother and child over the course of the weekend. The father took the smart watch from the child and only returned it in the course of the final hearing. The mother said the child went with the phone to give her the confidence she could speak to her mother if she needed to.
72. It is alleged that following the hearing the child was emotionally distressed and told her mother the father had been shouting at her and threatening to 'kill us.' She said she did not want to see him again and threatened to self-harm. She said this to a teacher who spoke to the guardian who in turn recommended she be taken to hospital. The mother followed this advice. The guardian records this as follows [985 §18]:
- I have spoken with the Safeguarding Officer and Head Teacher at...School by telephone and email several times. They contacted me on 21 March 2024 to say that [the Child] was visibly trembling with anger; that she was in a distressed state and said that if she has to go to her dad's this weekend, she will kill herself; that she will "never be able to escape him as he will never give up;" that her father sees her as his "possession;" that her life "isn't worth living anymore and she would be better off dead." [The child] was taken to A&E that evening, where [the mother] was told that [the child] would be placed higher on the waiting list for CAHMS (Child and Adolescent Mental Health Services). A Safeguarding Referral was made by the school (and No Further Action taken by the Local Authority). [The child] was sent home with her mother. She returned to school the following Monday and has presented as ok in school since.*
73. It seems to me clear that this was once again a missed opportunity for the father in which he was over focused on his own needs and not listening to what his child was saying. He seemed to have no ability to reflect on what it would feel like for the child to travel to Brighton without warning or even a clear explanation of what they were doing. Taking her personal items from her will not have helped. This will have been seen as a sanction for no good reason. I do not find the father made the threats alleged as the evidence is not sufficient to do so. I consider there is a possibility the child may have either exaggerated this or made up this account to further reinforce her wish not to have further contact. The father suggests the mother has either encouraged or persuaded the child to make these threats of self-harm. I will return to this below.

74. I consider this a thorough analysis of the key disputed points within the case. Pausing though I would make the following specific points with respect to any outstanding points in the schedules detailed above:

- i) In the case of the father, I have dealt with 2, 6, 7, 9 and 18-21. With regard to the balance: (a) I will return to the question of whether contact has suffered due to the mother's hostility in my analysis below; (b) I do not consider it necessary to analyse the reasons previously given for a wish to relocate to XX; (c) On the evidence available to me I do not find the mother has in fact alleged child abuse as claimed; (d) I will deal with the sleeping arrangements below; (e) The issue relating to the middle name does not justify further analysis; (f) Having heard the evidence as to the birth certificate I accept the mother's evidence that she still does not oppose this but the father also wanted to change the child's name contrary to the reassurance he previously gave; (g) I do not need to resolve the GP dispute although this was not in dispute before me; (h) I could not possibly determine why the child menstruated early without medical evidence; (i) I am not willing to make a finding re contacting D in her absence from the hearing; (j) the evidence does not support a finding in relation to NK or S (in the latter case it is not supported by her own statement); (k) I am satisfied the mother was in breach of the order on 13 January 2024 and that safeguarding was not a prerequisite to this contact; (l) I do not consider expert opinion is a matter for fact finding. I am in fact much better placed to resolve the competing positions having heard and seen all the evidence.
- ii) To the extent I have not dealt with the mother's schedule I will do so below.

Welfare Analysis: Re General Arrangements
--

75. What the child would want at this time is very much in dispute. The father places responsibility for the child's expressed views with the mother and considers she has instigated or encouraged everything said by the child. As with all cases it is important to keep in mind that a child's expressed wishes and feelings are not deterministic of outcome and must be assessed in the light of the child's age and understanding. A child nearing 11 years of age has a voice that demands to be heard whether or not followed. In this case I consider the expressed wishes are a function of this child's lived experience. Having reviewed all the evidence and been taken through a number of recordings (largely at the request of the father) I can easily understand the stresses and anxieties that have come to be placed on this child's shoulders and which are likely to have contributed to her own views. This is most unfortunate. There is within the evidence grounds for believing the child would welcome a positive approach to contact. I have viewed contact in which she has been willing to engage and my sense is that she does love both her parents. She expressed her dilemma as noted above in the October recording. Yet repeatedly she has been placed into an intolerable position. No-one should be surprised if she now opts for a stark solution which removes this from her. In bearing in mind her age and understanding I reflect on the child I see in the most recent contact sessions. She appears to me to be perhaps more mature than her chronological age and she clearly understands what this is all about. The

guardian has naturally provided me with the clear views of the child and her current opposition to contact. As with the guardian I do not simply follow these wishes but I do give them real weight. I judge for contact to now work it will require the child to support the contact and to see evidence of a change on the part of her father. I am concerned that were I to simply ignore her views then contact would not proceed and the parents would be left to continue to pass the blame. I also consider the child's understanding is currently shaped by the sense that she is not being listened to and she is viewing matters through the particular prism of recent events. I accept the mother's evidence of being blamed by her daughter. It is important that this relationship is not undermined by my decision. The outcome I propose in this case is a change of direction and one which I hope will provide her with comfort and confidence through which she can enjoy contact.

76. The child has shared needs with all children. These are being well met by her mother. I agree with the guardian that the fact that she shares a room with her mother whilst perhaps not ideal is not a cause for concern. The reality of modern life is that housing is costly and families often have to live in less-than-ideal circumstances. In any event I note she is not sharing a bed with her mother and there are real plans for her to move into her own room. I did not find the father's contrast with what he could offer (a bedroom with en-suite) to be helpful. Further I question why he was only willing to offer support with some modest works on the mother's home with respect to damp (which would allow the child her own room) if he obtained the outcome he sought. This suggests the case is about him not the child as far as he is concerned. The key concern for me is the child's emotional needs. I accept her needs include a chance to have a relationship with both parents. Aside from meeting a basic need this will keep her in touch with her mixed identity and the cultures which underpin this. But this cannot be at the cost of her emotional wellbeing. I am very troubled by her recent expressions with respect to self-harm. As far as I am concerned it matters not whether this is a 'cry for help' or something more. That this child has found her way to expressing a wish to kill herself at her age cannot be put to one side. At best it is the only way in which she can adequately express the strength of her feelings. This has not come out of a vacuum. Having reviewed the history of this case I note two things. First, this child has lived her life within litigation. When asked the father agreed this will have been terrible for her. I agree. She has not been offered the space to grow free from stress. Second, I have a sense of matters escalating in recent times. It is in that context that the child has expressed her feelings. This emotional need must be taken into serious consideration. That the father chose to blame this on the mother notwithstanding the guardian making clear she recommended the child be taken to hospital further demonstrates the progress the father needs to make in developing insight into his daughter's needs. In my assessment obtaining emotional security for this child must be built into any outcome. I simply cannot countenance a possibility let alone a likelihood of further evidence gathering behaviour as shown in this judgment. In hindsight I can see I made the wrong decision when I ordered the contact to proceed overnight at the PTR. However, that was prior to the opportunity to evaluate the evidence which then came to be placed before me. I certainly would not have made that decision on the findings I have now made. I can only offer my apology for any distress this has caused to the child but I hope it is understood I was doing my best to fairly balance the available evidence at that point in time.

77. The outcome I propose will amount to a legal change in the terms of contact for the child. I consider it will allow her to rebuild her confidence in contact and create a space from which she can once again engage in good and meaningful contact. The outcome I propose is one which reflects my findings and is consistent with PD12J by providing safe contact. I use safe here at an emotional level. This is not a case of direct physical danger. I consider the proposals put forward by the father would be inconsistent with PD12J. I cannot say with certainty that this will work and that the child will re-engage but I consider it has the best chance of working. I respect the guardian's analysis and the broad approach she has taken. Her evidence was measured and reasoned. In many ways she had the benefit of being introduced to this case when all the information was available. When I commenced my reading for the case around the first PTR it seemed to me the mother had a much higher hill to climb to make out her case. Having now had regard to all the evidence my understanding has changed.
78. I have regard to the child's age and other characteristics. I need say no more in this regard.
79. I have real concerns as to a risk of emotional harm if the father does not modify his behaviour. I have reached the conclusion this is a case in which he has been largely responsible for the situation he finds himself in. He has demonstrated a wholesale disregard for his daughter's needs and allowed his own feelings to get in the way of making the right decisions. It is concerning this has been a consistent failure. I note in January 2022 the father told the Court he would reflect on his 'zoom' calls and yet I have the events of late 2023. I am far from persuaded the anger management course has had the effect that was intended and I consider there is a real need for a meaningful piece of parenting work to reshape the father's understanding of his daughter's needs. At this time, I doubt he will be able to contain himself given the opportunity to continue this behaviour. I consider the Court has to shape an order which whilst respecting the need for a relationship contains the father's behaviour patterns. Having now viewed all the evidence I can find substance in the father's allegation that the mother has to an extent obstructed contact however I interpret that in the light of my findings. This was not done in isolation and out of simple hostility but out of the father's ongoing behaviour. Whether it was his approach to contact; his approach to her or his uploading of information onto the internet it seems to me this mother has faced an almost relentless battery over this history of litigation. As an example, the mother was plainly oppositional to the March 2024 contact proceeding. On my findings she was justified in holding this view. Yet she complied with the Court order. Such an approach can in fact be found in the papers. There are a number of occasions where she can be seen to be either compliant with contact or supportive of it (albeit on restricted terms). I do not find her to be obstructive for her own sake but out of her concern for the child. When I look back at the history of the case I can see it interspersed with complaints of the father acting in the manner I have now found him to be acting on occasion. On the information I have I am satisfied these complaints had foundation.
80. The mother has demonstrated an ability to meet the child's needs. The father has demonstrated some significant deficits in this respect as noted within this judgment.

81. I next turn to the related question of discharge of the prohibited steps order / travel to XX. They are related as the father puts his case on the basis that were the mother to travel to another country then she could and/or would travel onwards to XX thus defeating any order preventing the same. The mother disputes she has any intention to act in this manner. She gave evidence as to travelling to XX prior to Court proceedings and told me that her wish is to visit this country with the child and her mother (who is elderly and may not have another opportunity). She gave evidence as to the embeddedness of both her and the child in this jurisdiction. She explained things have moved on since the original application which was made prior to the child commencing school. She has no legal status in that country in any event. The guardian supports both the removal of the PSO and the permission to travel to XX. In her evaluation there is no basis for believing the mother will not return. I tend to agree with the linkage of the two issues. Plainly a person travelling to country AA could use that as a launchpad to travel onto XX. If I considered this was a sufficient risk then I am unlikely to have the confidence required in the mother to permit any travel.
82. In the background section above, I have noted historic directions given to obtain: (a) expert evidence as to safeguards, and (b) evidence as to the likelihood of XX complying in the event of a removal. Neither party appears to have followed these directions and so I am without expert evidence. In such a situation convention dictates that I should approach the case on the basis that it is unlikely any safeguards exist which would guard against a wrongful removal. It is perhaps fair to observe that when expert evidence is obtained it often reaches a similar conclusion.
83. I remind myself this is ultimately a welfare assessment. Aside from the issues related to risk (to which I turn) there are obvious and real benefits in removing the PSO and travel to XX. In general terms it would plainly be in the child's interests to be able to travel and experience overseas culture. There is little basis for suggesting there is a fundamental negative associated with the same. Furthermore, in relation to XX there are specific cultural and identity factors that make such travel of relevance and importance to the child. Other things being equal there would be strong grounds for acceding the mother's request.
84. But this decision must have the risk of harm (and specifically removal and non-return) at its heart. I put to one side the suggestion of the father that the family home in XX has been damaged by rebels in 2023. The mother agreed it had been burgled at one point but denied the broader claim. I have no evidence to make such a finding and in any event the mother made clear the family would visit the property but stay in a hotel if they travelled. I accept XX has had some internal political challenges but they are not current and the more significant issues in that country were not local to the place to which the mother would travel. However, there is an obvious and significant risk of harm were what the father feared to happen. Such a decision would fundamentally undermine the stability the child has in this jurisdiction. It would transfer all her life to a country with which she is not familiar. It would damage if not destroy all her peer groups relationships and might have a profound impact on her education. Importantly, it would drive an emotional and geographical wedge in the relationship between her and the father. It is clear to me the harm is of a significant

magnitude and the Court should not countenance an outcome which leaves this as a plausible outcome.

85. My focus is therefore an assessment of the risk associated with such travel. Having considered all the evidence I have reached the conclusion that the risks are set at sufficiently low a level that it is appropriate to give permission to travel and to remove the PSO. My reasoning for this conclusion is based on the following:

- i) I have accepted the evidence of the mother that she has in fact travelled to XX and returned on previous occasions. This is a factor supporting her position;
- ii) I also reflect on the fact that for much of the time that she was seeking to travel the only thing preventing the same was her undertaking to the Court not to do so. Thereafter an order was made but she retained the necessary documents to permit travel. At no point has a Port Alert been made. In reality throughout this period the mother could have travelled albeit in breach of the order. This has some probative value because the counter argument is that if allowed to travel, she will break an order by not returning to this jurisdiction. The fact that she has not previously broken an order by doing the same is of some relevance. This is not a case in which the mother has not had the chance to travel. The father himself appears to have feared she had done so when he previously summonsed the police;
- iii) I also accept the evidence that things have changed since the initial application. That was at a time prior to the child starting school and the child is now firmly embedded into a range of relationships in this country. Time has moved on and the logic for relocation diminished.;
- iv) It is also right to bear in mind that whilst the mother lived in XX in her childhood and has association with that country, she is in fact a UK citizen and has strong connections in this country. She has now lived here for a number of decades, she owns property in this country and is employed here;
- v) She gives a cogent and credible reason for wishing to travel without intention to stay. There are obvious reasons for her wanting to visit XX with her daughter and mother. These do not suggest a wish to live there;
- vi) Having now made my findings I repeat my conclusion that the mother has not in fact been actively hostile to contact and as such I do not judge she would likely fail to return in an attempt to damage the father's relationship with his daughter. I do bear in mind the possibility of her doing so as a consequence of his actions but judge this does not carry great weight when balanced against the other matters and when seen in the light of her opportunity to do so during the proceedings and her failure to do so;
- vii) I also take account of evidence given by the father. He told me about a hearing where he agreed a trip to (I think) France only to be overruled by the Judge. In his final proposals he said he would agree to international travel after 12 months and

travel to XX after 24 months if the Court followed his plan for shared care. Finally, at one point in his evidence he said words to the effect ‘if she would agree me going to YY (another Non-Hague Convention country with which the father has connection) then.....’ At this point he stopped and I asked him to finish. The strong sense was that he was going to say he would then agree for the child to travel to XX. In the event he did not finish the sentence and I had the sense he perceived the difficulty this might place him in. Taken together I had the sense the father’s opposition was not grounded in a genuine fear of non-return but reflected a level of control over the mother. Whilst by no means deterministic of the question the opposing parties’ views and the basis for the same are always going to be of some relevance;

- viii) I also bear in mind the fact that XX albeit not ratified under the Convention by the UK is ratified by a number of other countries such as the USA, France, and Germany. As such it is not a complete outlier on the world stage;
- ix) I also bear in mind evidence I received as to the father being a multi-millionaire with multiple international properties. I simply raise this point as it suggests were there any breach then he would be well placed to financially engage actively in any foreign legal system to his advantage.

86. Taking these points together I have placed the risk of breach at a sufficiently low level such that I consider it safe to permit travel as sought. Having reached this conclusion I can see no basis on which to prohibit travel in general.

Conclusions

87. I have sadly reached the conclusion that the child’s welfare requires the contact be substantially scaled back from the level set in the last order. In this regard I agree with the principles underlying the recommendations of the guardian. I consider that unsupervised contact will likely continue to be a damaging experience for the child. I also consider that setting contact at too high a level runs the real risk of a total breakdown in contact.

88. I have reached the conclusion the contact should be supervised and should occur on one weekend day every other month, i.e., 6 times per year. The contact can be supervised by an agreed third party or in default by a professional supervisor. There was a suggestion that the father’s sister might undertake this. The mother’s only reluctance to this proposal was that the father had alleged that she had abused this person. I note there was little in the sister’s actual statement to support this suggestion and the contents of her statement were not overly critical of the mother and it may well be this is evidence from the father which is unreliable. Given the extent of contact and the father’s finances it would appear there should be no difficulty in funding a professional supervisor if required. The father will bear the costs. I can see no reason that contact should not be for a good period of time on each occasion and on balance would set it at 4 hours per day, increasing to 6 hours after the first 4 contact sessions. In reaching this conclusion I modestly move from the recommendation of the guardian (who set it at 4 times per year). I judge the level I set is manageable and will better maintain the relationship. I would hope the father can reflect and make changes to

improve the time he spends with the child but the supervisor will assist in ensuring the contact is positive. If changes can be made then one should not rule out progress into the future. There is no reason this contact should not include wider family members to who the child has a connection

89. I will also order indirect contact with letters, cards and gifts on significant occasions and an indirect video contact once in each month in which there is no direct contact. I would propose the direct contact is in the even months of the year (which will likely capture the Easter and Christmas holidays and a contact around the child's birthday) with the indirect contact in the odd months. The child will be free to contact the father as she wishes and a telephone number should be available to her for this purpose.
90. I will discharge the PSO with respect to the mother but intend to restate the PSO with respect to the father.
91. I intend to make a s91(14) order relating to all s8 applications in respect of the father to last until the child is 14. I consider this is necessary to give the child the space to settle and recover her emotional wellbeing. This litigation must now stop. The period I have set is the least required to achieve this end.
92. I also intend to make an order under the Family Law Act with two clauses as follows:
 - i) The father shall not attend at, enter or attempt to enter the mother's property or any other address at which he knows or believes the mother to be residing nor shall he come within 50 metres of that property whilst on foot or stop any vehicle outside of that property within such a distance (other than if travelling on an adjacent road in traffic).
 - ii) The father shall not post on social media or the internet any videos of the child, or videos which refer to these proceedings and must use his best endeavours to remove any such videos which are currently so posted.

This order will last until the child's 14th birthday.

93. I will hand this order down on 3 May 2024 at 10am. This judgment can be shared with the lay parties. Can I have any corrections, requests for clarification and a draft order by 4pm on 1 May 2024. Can I also have any suggested redactions for anonymisation (other than removal of the names of the parties) which will of course be redacted in any event.

His Honour Judge Willans