

IN THE NOTTINGHAM FAMILY COURT

SITTING AT THE NOTTINGHAM MAGISTRATES' COURT

Neutral citation: [2023] EWFC 272 (B)

Case No. NGXXPXXXXX

Courtroom No. 22

Nottingham Justice Centre
Carrington Street
Nottingham
NG2 1EE

Monday, 13th November 2023

Before:

HIS HONOUR JUDGE REECE

B E T W E E N:

B

and

C

The case may hereafter be cited as
B and C (Children) (Cross allegations of harmful behaviour by parents).

MR ANDREW DUNCAN of counsel appeared on behalf of the Applicant Father B.

MR GARY PEAKE of counsel appeared on behalf of the Respondent Mother C.

JUDGMENT
Anonymised and Approved

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This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All

persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

HHJ REECE:

1. I am concerned in this case with the welfare of a young girl, D, born on [omitted] and therefore, [omitted] years of age at the time of this hearing. Her parents are B and C.
2. Her parents separated in [omitted] and at that point, the mother had been arrested by the police after they had viewed videos; videos now relied upon by the father, of the mother hitting D. There have subsequently been private law proceedings between the parents running for a period of 18 months, stretching back to 4 May 2022 and including cross-applications by both parties for orders under section 8 of the Children Act 1989.
3. The matter has now been listed for a contested final hearing before me with, at the present time, D living with her father and having supervised contact with her mother on Saturdays between 10.30am and 4.00pm. At this hearing, B has been represented by Mr Duncan of counsel and C has been represented by Mr Peake of counsel.
4. The position of the parties can be summarised as follows. Both seek to care for their daughter. Both offer contact. However, both make significant allegations about the conduct of the other which need to be determined before this Court can go on to consider the necessity for and type of orders in this case.
5. The case of B is fundamentally an accusation, supported by a series of CCTV videos that the mother has inappropriately chastised their daughter on a number of occasions between 2021 and 2022.
6. The case of the mother is an accusation that B, and indeed members of his wider family, have acted in an oppressive and controlling way towards her and that B has subjected her to a series of physical and sexual assaults including rape, in the course of their relationship.
7. These allegations are set out in two schedules in the bundle. The father's allegations appear in a schedule at C1 to C6. He makes six allegations there of physical chastisement of the parties' daughter between 31 March 2021 and 5 February 2022. The mother's schedule is at C16 to C19 of the bundle and it is alleging various abuses by the father ranging from verbal

arguments to physical and sexual abuse, threats and other controlling behaviours in the longer period 2018 to 2023.

8. Insofar as the law is concerned, there is no real dispute between the parties but some key points ought to be stressed and emphasised. Firstly, it is the purpose of this Court in analysing disputes of this kind, to establish anything relevant to the key, indeed, the paramount question of the welfare interest of the subject child going forward. The Court should confine its enquiries to matters that touch upon those issues. Insofar as disputed allegations are concerned, the task of the Court is to consider the allegations to the civil standard of proof; that is to say the balance of probabilities. The task of the alleging party is to satisfy the Court that the allegation is proved to that standard. There is no burden in either direction to disprove an allegation.
9. The role of the Court is to take a view of the whole of the evidential vista and determine the truthfulness or otherwise of allegations. This includes consideration of the veracity of all witnesses. In considering all of the evidence, it is important for the Court to follow the familiar guidelines noted in the closing submissions of Mr Peake arising from the case of *R v Lucas* [1981] QB 720 and to keep in mind that witnesses may tell lies about some issues but that does not mean they are lying about everything.
10. Finally, of course, I make the point that any orders which this Court needs to make should only be made in the paramount welfare interests of the child and by reference to section 1 of the Children Act 1989.
11. Returning to the specific matters in this case before I deal with the evidence, I emphasise that I have had the opportunity to read the bundle prepared for this hearing. It is in two parts. I have also had the opportunity to hear witness evidence from the mother, from the father, from the mother's sister, E, from the paternal grandmother, F and from the reporting social worker, G. Finally, I have had the opportunity to read detailed closing submissions from both parties.
12. The evidence of each of the witnesses in this case can be summarised succinctly.
13. The first witness I heard from was the reporting social worker, G. Her recommendation to the Court is that D remain in the care of her father and to have supported contact with her mother in view of the physical chastisement which is alleged in respect of D. She was clear in her

evidence to me that she has not worked with the family now since 28 September 2022 and therefore, her observations are based on dealings from at least a year ago.

14. She was asked about the allegations that Mother had made about mistreatment of D at the hands of her father in May 2022. G was clear that she had had no evidence that D had been malnourished or otherwise mistreated in the care of her father at this time. In short, there was no evidence to say that this was true or that there were any concerns in G's view about the parenting of D.
15. She was also clear that the father had not made reports of the mother's conduct which is captured in videos before this Court to the Local Authority when these matters were recorded. However, what she told me was that, having viewed those videos and discussed them with the mother, the mother had not shown any concern about the impact of physical chastisement on D and had sought to minimise and deflect questions as to her own behaviour.
16. The social worker was clear that in her view, the mother's behaviour in the videos was upsetting to a very young child and that the mother had inflicted very damaging pain and fear upon her. As a result, G maintained a clear recommendation to this Court that there was no basis to remove D from the care of her father. She also told me that the current level of weekly supervised contact was meaningful and helped to maintain the bonds of the relationship between mother and daughter. At the same time, she accepted there may need to be some flexibility and practicality about the contact arrangements, not least, to leave weekend time free for father and daughter.
17. The social worker was clear that any contact will still need to be supervised in view of the behaviour of the mother until D is old enough and she is able to talk about her experiences in contact. G hoped that a date could be agreed between the parties for the reduction of supervision but acknowledged that that may be something which is impossible so far as agreement is concerned between the parents. She was also asked to consider within the question of the importance of contact; whether substitute contact should take place when the father is on holiday or in similar circumstances and she was clear that such contact should be made up in some way or conducted remotely.

18. I then heard from mother in the case who gave very lengthy evidence at this hearing. She told me plainly and straightforwardly that she wanted her daughter in her care. She accepted that she had made mistakes in the care of her daughter in the past and said that she had learned from them and wanted another chance to care for her.
19. Initially, she told me that she felt the chastisement she had used was due to growing up in India where she inferred that this was a culturally acceptable practice. She later told me that it was not part of the culture to behave in that way but felt that no one within the family had been willing to tell her where she was going wrong. She also felt at the time that she was caring for her daughter, she was subject to stress and oppressive conduct within the paternal family home by the father, the paternal grandfather and the paternal grandmother. She exemplified this by telling me that the paternal grandmother had threatened to send her back to India and to give her a beating.
20. She also told me that the grandparents had not wanted a young girl but wanted a boy – a grandson – and that the grandmother had carried out a number of hostile acts towards D including an instance where she was deliberately burnt with an iron. The mother was also clear that the father had assaulted her by way of strangulation in an incident on 27 March 2022. With regard to that incident, the father obtained a video which was played to the mother and it was put to her that she had no visible injuries in that incident and nor had she shared anything with the police a few weeks after the alleged incident on 16 April 2022. The mother denied that she was lying about these things.
21. Mother was also shown in cross-examination a variety of videos showing physical assaults upon her daughter; videos which I have seen. I do not propose to set them all out for the benefit of this short judgment but to exemplify matters. The incident on 17 March 2022 was put to the mother and she was asked whether she accepted that on that occasion she had forcefully slapped her daughter. She said she had not, that it was a “soft slap”. Similar incidents were put on 12 January 2022 and on 5 February 2022 to exemplify these matters and how the mother had treated her daughter. In respect of all of these assaults, C denied losing her temper with D.
22. It was put to her that she had minimised her actions in this approach and had done so earlier with the Local Authority in March 2022 when she had suggested that the interactions were

more playful than violent. The mother did not accept this. It was also put to her that she had lied when she had said that the father had been controlling and had subjected her to abuse. It was put to her that regarding the allegation of control, it was significant that the mother had never mentioned this to her general practitioner on occasions when she had visited the medical practice alone or on various hospital visits that she had attended alone. It was also put to her that she had been able to visit her sister in 2021 and 2022. The mother accepted that she had done all of these things but did not accept that her allegations were untrue. What she did accept at one point in her evidence, was that she had lied to obtain a non-molestation order against the father when she had said in her supporting statement that he had made up the allegation of her beating her daughter. That could not be true in the light of the video evidence which was now before the Court.

23. Mother also accepted there were occasions when she was dealing with other agencies such as with Cafcass in June 2022 and the Local Authority in July 2022 when she had not mentioned any sexual abuse amongst the misconduct of the father. It was put to her that the police had formed a clear view by June 2022 that her approach was not an honest one and that her fundamental motive was to seek the return of her own child to her care. The mother denied this. It was put to her that she had lied for example, when she had asserted that the father had raped her on numerous occasions, sometimes up to three and more times a day and yet she had then gone on to text him to seek a sexual relationship in February 2020. The mother denied that she was lying about these things but she accepted that she had asked for sexual intercourse with the father after the birth of her child.
24. I then heard from the mother's sister, E. She was asked about the occasions when the mother had come to visit her. She was clear with me that she had never seen the mother inappropriately chastise any child and clear, equally, that there was no cultural explanation to be found in their childhood which might lead the mother to hit her young child. E accepted in her evidence that much of her awareness of events came from what she had been told by her sister. She had never viewed the videos which the father had produced herself. She did not believe that the mother had hit her daughter and when she had questioned the mother about this, the mother had denied it to her. She did not believe that her sister had ever lied about this issue or anything else.

25. I then heard from the paternal grandmother, F. She told me that she was hurt by what had happened but that she was clear that when everyone had been living under the same roof, her son's wife had been clear that she must not interfere in the chastisement of her child. Looking at the allegations that the mother has made about the grandmother's own conduct, she denied ever saying that she did not like girls. She told me that she had three sisters and that she was clear that D was, to use her words, her "life". She denied ever harming her in the way that the mother had alleged with an iron or anything else.
26. She told me she felt she had a good relationship with her son's wife when they were together and that she had not seen arguments between her son and his wife or shouting by her son. She told me that all she had seen was the mother lose her temper and swear on any occasion when she was not getting her own way. She told me that as a result of this, she had "cried inside". Finally, she was asked about the CCTV in the family home and told me that was there because the family had suffered from burglaries.
27. The final witness in this case was B. He was clear and straightforward in his depiction of his daughter. He told me that she was a "gift from God". He was asked about the video produced during the hearing covering the events of 27 March 2022 and which had been put to the mother. He accepted that his behaviour as shown on that video was not all it could have been. He told me that he was disgusted by the language that he had used but that his actions were a reaction to seeing his daughter hit and constricted in her movements by his wife. He was clear that his daughter needed help and that he had intervened, loosening the mother's grip but he denied anything more potent than that and specifically denied attempting to choke her. He said this was something that could not be seen on the video which had been produced.
28. In describing the mother, he told me that she was generally a "swear" type of person; a volatile person whose basic approach was that it had to be her way or no way. B was clear that he had never ill-treated his wife, that he had never been sexually abusive towards her, that he had never locked her in the home without a key, that he had allowed her to keep the money she had earned and that he had not been controlling towards her. What he did accept was putting approximately 10 cameras in the family home. He was asked about the motive for this and told me straightforwardly that he did not think he would be believed otherwise than to produce evidence in this way and also, that those cameras were there for security.

29. My impression of the witnesses can be summarised equally succinctly.
30. Insofar as the reporting social worker is concerned, I found her to be a straightforward witness. She set out her dealings with the family and the risks arising from her investigation and particularly from the chastisement carried out by the mother, in a clear manner. Her evidence was not undermined by cross-examination.
31. Insofar as the family witnesses are concerned, I found the paternal grandmother to be a particularly impressive witness. She was polite about the mother and cautious not to find fault with her where she did not need to. She was open about her love for her granddaughter and robust in her denial that she had caused any harm to her. It is easy to see, having heard from her, the dilemmas presented by witnessing physical chastisement on the part of the mother and this can be seen clearly in the supporting video evidence which has been submitted to this Court. It was a dilemma for the grandmother and it was difficult, so it seems to me, for her to know what to do or how to properly intervene.
32. The only area where I was somewhat more cautious about the grandmother's evidence was her assertion that she had not heard arguments on the part of her son. That seems to me to minimise some of the difficulties which were apparent to all in the mother's or indeed, the father's case by the time they were living in the paternal family home. I have no doubt that the grandmother's reluctance to acknowledge this resulted from a degree of family loyalty to her son.
33. I formed very much the same view of the evidence given by B. He has been clear and consistent in his denial of significant oppressive conduct towards the mother and he has refuted in a consistent way very many of the allegations she has laid against him. That was not significantly challenged or undermined by the cross-examination of B on the mother's behalf or indeed, by looking at the totality of the evidence that I have before me from all sources. However, if I look at the video evidence alone, the picture is a more nuanced one in that there is certainly at least one instance where it appears to me by the father's words and deeds, he was in despair at what was going on in the family home. There is at least one occasion when he was, to put matters at their most reductive, reactive to the mother's actions. He argued and he shouted at her. All of these reactions are apparent in the video of 27 March 2022 to which I will return.

34. Turning to the mother's case, it seems to me that I can place very little weight upon the evidence of her sister E. She was entirely candid that much of what she knew about matters derived from her sister and she did not believe that her sister had lied to her regarding the denial of chastisement of the children; something which on the mother's case, she plainly must have done. That is an entirely naïve view, therefore, when the video evidence is taken into account and significant physical chastisement on the part of the mother is observed. The only point of her evidence which I regarded as helpful to the wider factual inquiry was the denial of a cultural context to the physical chastisement which, given her underlying loyalty to her sister, seems to me to be an important observation in this case.
35. As to the mother herself, allowing for the matters set out in *R v Lucas*, the totality of her evidence is coloured by two significant difficulties. Firstly, there was a basic inability to accept what must be plain to anyone who has viewed the videos, that she has subjected her daughter to a number of physical assaults arising, as is plain from the videos themselves, from shortness of temper when feeding and caring for her. In her evidence, she sought to explain that away by suggesting that it resulted from cultural conditioning in her own childhood or by suggesting other family members should have shown her a better way. These suggestions are undermined by the other witnesses in this case including the sister and the paternal grandmother as I have set out. What they amount to in my view, is a profound inability on the part of the mother to accept in a direct and straightforward way, the acts of aggression which are plain to see in the videos.
36. Secondly, when one looks at the mother's difficulties as a witness, her evidence is peppered with allegations against the paternal family which in many instances, cannot be sustained.
37. One key example of this is the assertion of threats and violence and harm to D by the maternal grandmother. None of those matters can possibly be sustained when one has heard the evidence of the maternal grandmother who in a simple, heartfelt way told me of the central importance of D to her life.
38. If I choose another allegation as an example, it is the mother's allegation of strangulation on the part of the father on 27 March 2022. That is wholly undermined by the video obtained on that date and shown in the course of this hearing. I have, therefore, come to the conclusion as

indeed I am urged to by Mr Duncan that almost everything which the mother has submitted in this case is controversial and sometimes contradictory and evidentially difficult to sustain and not evidence that should be preferred to other evidence that I have.

39. Accordingly, what is the evidential picture which emerges from the totality of the things which I have read, seen and heard?
40. I deal, first of all, with the allegations concerning the mother's conduct towards D. It is not denied by the mother now that she physically chastised her daughter on a number of occasions. It seems to me that she is wise to make this concession. It is perfectly plain from the videos I have seen that on a series of occasions, the mother hit, shook and forcibly pulled her daughter when she was caring for her.
41. Insofar as the force involved is concerned, it is also plain that on several occasions, the mother did so forcefully, for example on 31 March 2021, and not lightly as she has sought to portray in her oral evidence and indeed written evidence in this case. The videos show assaults of a much more forceful nature than the mother has been prepared to admit.
42. Nor do I accept that this is a culturally acceptable approach in India. The mother's sister denied that this was the case and I accept her evidence upon that. What the mother's contact amounts to, and what the videos show, is an almost instantaneous response to any frustration the mother has with her daughter. The primary motivation for her actions therefore was a loss of temper and anger rather than anything else. What she is doing is acting impulsively and that is plain to anyone who has viewed these videos and seen her highly distressing conduct towards her daughter.
43. I am, therefore, satisfied that the video and other evidence in this case establishes to the civil standard of proof all of the allegations set out by the father in his schedule which cover a period between 31 March 2021 and 5 February 2022. I am satisfied that all are made out to the civil standard of proof and that the distress of D is evident on a number of occasions. It is of course, right to note that the father produced far more video clips covering other incidents than found their way into the schedule but it does not seem to me, having accepted that six allegations are made out, that I need to wade through all of the other allegations which show,

in essence, the same conduct on the part of the mother over what, as I recall it, was a nine-month period in the family home.

44. It also seems, in the way that the mother approached matters before me, that she confirmed the evidence of the social worker that the mother has sought to minimise and explain away her conduct and in reality, has little or no understanding of professional concerns about the profound harm that such actions on her part would have caused to a young child.
45. Turning to the mother's allegations against the father, I have considered these allegations both individually and collectively. The key point to be made is that it is for the mother to establish the truth of the allegations to the civil standard of proof. B has been clear and consistent in his denial of these matters and told me in his oral evidence that he was "a big softy at heart".
46. I do not think that that can be entirely true.
47. The video produced during the hearing of March 2022 shows that the father is capable of acting in a bullish and angry way and of using coarse language towards the mother. However, it is also plain from that video, as he sought to assert in his oral evidence, that his response is a reactive one to the considerable provocation of seeing physical chastisement of his daughter. That is plain, when the video is viewed, in the pained response of the father to the paternal grandfather about the extent that he has tried to avoid these difficulties. What the father says on the video is straightforward: "I've tried dad, I've tried". That captures, so it seems to me, many of the difficulties that the father had in the relationship when the mother was caring and chastising their daughter.
48. To that extent, I view the father's conduct as reactive whereas what the mother is alleging is proactive behaviour in the control that he sought to assert over her. I am satisfied having considered everything, that there is precious little accurate evidence of this, although it might be said that the presence of the cameras in the family home is of itself, a concern. Here, I accept the point made by the father that without the cameras, no one would have believed him. However, the presence of so many cameras in the home is unusual, to say the least. Nevertheless, I am satisfied that ultimately, the cameras had an explanation.

49. What is far more difficult to accept from the evidence I have seen, read and heard is the allegations of controlling or abusive behaviours made against B. I say that for the following reasons:
- a. Firstly, the mother's evidence is entirely riddled with inconsistencies about these key matters; a submission which is made in detail in Mr Duncan's closing final summary of this case which I accept. This is exemplified by C's varying account of sexual abuse which is not shared by professionals at certain stages when she had a clear opportunity to do so and is variously raised and refuted on a number of occasions as detailed by Mr Duncan.
 - b. Secondly, there are aspects of the mother's account of abuse which I regard as incredible in themselves. For example, her allegation of being regularly and repeatedly raped by the father on at least three occasions per day in the course of her pregnancy does not sit easily with the acceptance that she has given to the fact that as soon as her daughter was born she was anxious to resume a sexual relationship with him.
 - c. Thirdly, the evidence that she gives of control is not consistent with the mother's ability to visit her sister or various medical professionals and it was not consistent with the mother's actions depicted on the videos where on a number of occasions, she acts entirely unilaterally and abusively towards her daughter without any recourse or response from any member of the paternal family.
 - d. Fourthly, there is clear evidence that the mother has been dishonest about key allegations regarding her own conduct to her sister. It is plain that she has sought to depict all of her problems as emanating from the paternal family, and that is not so. The video shows that to be a lie.
 - e. Fifthly, the allegations made by the mother against other family members, notably, the allegations made against the paternal grandmother are, in my assessment, completely unsustainable. As I have already noted, the depiction of the paternal grandmother is very many miles from the picture of a concerned and loving grandmother which I gained from hearing her. It is also clear in one of the videos which I have seen, the video covering 23 September 2021, that an attempt by the paternal grandmother to console D was cut off because the mother told the grandmother not to interfere or discouraged her from doing so. That is not consistent with the picture the mother paints of control on the part of the paternal grandmother.

50. For all of these reasons, I have come to the conclusion that I cannot accept the vast majority of what the mother has alleged about the father's conduct in the period between 2018 and 2023.
51. Dealing with the first of her allegations, I accept that there were arguments and shouting within the relationship but that was in the context of difficulties that the father had in seeing the mother physically chastise their daughter. I do not accept there is any credible evidence that the mother has shown which supports the notion that the father set out to abuse her as this allegation suggests.
52. Turning next to the second allegation, that is physical and verbal abuse, in particular, unprovoked assaults, I reject the mother's assertion on the evidence of the videos and other evidence before the Court that the father had acted abusively in this way. What the videos actually show is the father refusing to act when the mother had physically chastised their daughter save for the video on 27 March 2022. In other words, he was acting with restraint rather than, as the Mother would have me believe, carrying out unprovoked assaults on her. When I look even at that video, it is clear from the playing of the video that there is no opportunity for the father to have strangled the mother in the way that she alleged.
53. Turning to allegation three which is allegations of controlling behaviour, that is in two parts: first of all, if I deal with locking the mother in the flat, I only have the mother's word for this. I do not prefer her evidence to that of the father in view of what I have already observed as to her overall dishonesty. Secondly, allegation 3(b), which deals with threats on the part of the paternal family to take D to India, was not something which was significantly pursued at this hearing but it seems to me inherently unlikely from what I know of the paternal family and is not accepted by me. The whole position of the family, certainly the paternal grandmother and the father from whom I heard was that D was at the centre of their universe and these threats seem, therefore, to me, to be wholly improbable.
54. Insofar as the notion that the mother was controlled by the father is concerned, that is undermined by very much of what she said to other authorities. That is carefully analysed by Mr Duncan in his closing documents. However, I note in particular, the dealings the mother had with the police in 2022 when she made plain that she was able to attend her general practitioners on her own, had her own mobile phone and had access to her own

income. They are not consistent with the allegations of coercive and controlling behaviour that the mother has alleged.

55. Allegation 3(b) also deals with threats made by the family towards her family in India. They were not actively pursued and I took the view they were inherently unlikely.
56. The same can be said of allegation four which was of direct threats to remove D to India. That, it seems to me, was predicated on the mother's assertion that the family wanted a boy and did not value D as a girl. As I have already commented in the previous allegation, from the totality of the evidence, and particularly that of the paternal grandmother but also that of the father, I have come to the conclusion that in fact, D was very highly thought of in the paternal family and there is therefore, no basis for saying they would have acted like this in making that threat. I reject the mother's allegation.
57. Turning to allegation five, that is to say child abuse in the broadest sense to D within the paternal home by witnessing threats to her by the paternal grandmother and so on, as well as the wider threats which perhaps did not find their way into the schedule, I again, reject these matters as inherently unlikely. I have heard from the grandmother and I have viewed the videos and the impression that I get from the videos and what the grandmother said is that the grandparents were in a profound quandary about what to do to protect their granddaughter and that it was inherently unlikely that they would have acted in the violent way alleged by the mother. For the avoidance of doubt, this extends, although it is not included in the allegation, to the wider allegations made by the mother in this case against the paternal grandmother. I see no basis for an assertion that this woman would have acted in such a way as to have burnt her granddaughter, poured liquids on her granddaughter, pushed her granddaughter or any of the other matters which the mother has sought to assert.
58. Finally, turning to allegation six, that is to say, the very serious allegation of sexual abuse on the part of the father, I have considered this matter alongside the others with considerable care. I do not accept that the father has acted in the way suggested, engaging in a course of conduct of vaginal and anal rape of three perhaps even six times a day if I take the mother's conversation with the police on 22 June 2022. That is entirely improbable when the Court takes into account the mother's request for sexual intercourse shortly after giving birth to D, and the other inconsistencies which I have highlighted in this case.

59. Finally, I am invited to consider by the father whether the mother has falsified her allegations as part of a vexatious, dishonest attempt to seek the return of her child. I am satisfied the mother has not been telling the truth about some very serious aspects of this case such as the allegations of rape against the father and the infliction of physical injury to D and other conduct alleged against the paternal grandmother. They are plainly pleaded as part of a case to have her daughter in her care by the mother. The only qualification to this it seems to me, is that there are instances, as shown by the video of March 2022, which I regard as unlikely to have been a one-off, where the father did lose his temper and there were arguments between husband and wife.
60. I turn now to the orders which are, therefore, necessary to be considered in this case. I see no basis, looking at the welfare checklist in section 1 of the Children Act 1989 and the overriding priority of D's welfare, to make any other order than one which secures her in the care of her father. She is safe there. He loves her. He is meeting her needs and she is hitting her milestones. A move to the care of her mother would in my view, run the risk that some of the abusive behaviours which I have set out in this judgment might be repeated in the care that she offered her daughter. The mother is still a long way, in my assessment, from fully coming to terms with her actions towards her daughter.
61. It follows from what I have said, that any contact between mother and daughter needs, at the present time, and into the foreseeable future, to be supervised although I hope that there will come a point when the parents are able to work together to slacken the need for supervision. That is a process which I accept is likely to take time. The father talks I think, in terms of D being at least seven and that certainly accords with my view that it is likely to be something which happens when D is at junior school and able to report to the father and to school about anything which gives her concern. However, I very much hope it is something which the parents will consider in the future. I certainly cannot order a timetable for the reduction of supervision now, and it remains necessary now.
62. Insofar as the frequency of contact is concerned, the father, I think, had begun with a proposal of monthly contact and has modified his position to three-weekly contact at one of two identified contact centres as set out at the start of this part of the hearing by Mr Duncan. It seems to me he is right to acknowledge that contact ought to be more frequent than

monthly to sustain this important relationship between mother and daughter and to take into account D's needs at the age she is for regular and frequent contact with her mother. I note that Cafcass have recommended weekly contact but it seems to me there are a number of practical obstacles to this in terms of the costs and the logistics of having supervised contact at considerable expense in terms of supervision on a more regular basis. I, therefore, propose to make an order along the lines that the father has suggested but with additional provision, hopefully to be agreed between the advocates for the parties today (and about which I might need to hear further submissions), to deal with special occasions, extra time in the holidays and the like, possibly even the prospect of setting up remote contact and certainly indirect contact which will allow the mother to have maximum knowledge of how her daughter is progressing and to interact with her meaningfully in regular contact and other contact. It is a matter which requires some further discussion and I will deal with any points in dispute in due course.

63. I have also been invited on the father's behalf, to impose an order under section 91(14) for three years as a filter to restrict the mother's automatic right to make further application for orders under section 8 of the Children Act. Mr Duncan has taken me to, and I have considered, the recent case of *A Local Authority v F and Others* [2022] EWFC 127. I note that that case involved even more serious matters than this in that the father had murdered the mother and been convicted of that and of the disposal of her body, and had maintained a denial about these events. However, if one ignores the facts of the matter and focuses on the law, the case, as Mr Duncan says, amounts to a statement both of the "old guidelines" and of the "new guidelines," if I might describe them that way, for orders under section 91(14), the old position being a great stress upon the need to use such orders sparingly and particularly to consider a series of caveats where there had not been multiplicity of vexatious and unsustainable applications. Then, what the Court was invited to consider was whether matters went beyond scenarios which were traditionally encountered by the Family Court and whether the situation, without the order, was likely to impose strain on the child or the primary carer.
64. What the case relied upon by the father makes plain is that that has been modified most recently by the case of *Re A (A Child) (Supervised Contact) Section 91(14)) Children Act 1989 Orders* [2021] EWCA Civ 174. Again, that judgment emphasises the usefulness of

section 91(14) where there are matters of raging dispute but perhaps makes the circumstances where an order might otherwise be used wider and really, invites the Court to look at the welfare of the child in the scenario in a wider sense and to consider whether there are circumstances where an order might be imposed in a different way. *A Local Authority v F* is an authority on that principle, focusing upon the risk of the mental and emotional health of the children arising from the knowledge of the conduct of the father and his own failure to acknowledge that over time.

65. I have considered all of these things very carefully as to whether this is an intrusion into the mother's right to bring proceedings which this Court ought to make. In this instance, I have declined to make an order under section 91(14). However, what I propose to do is to reserve any application made in respect of this child to me for a further period of five years, there being no suggestion save for, I suppose, retirement or ill health which is stopping me from sitting here over that period. It seems to me that that, alongside the ordering of a transcript at public expense which can then be shared with the parties and kept on the file, is an important safeguard to the father and D against unmeritorious applications. Put bluntly, if the matter has not moved on and the mother has not moved on in her recognition of the very serious findings that I have made, then no application is going to run very far and certainly not as far as this matter has.
66. Finally, so far as other matters are concerned, I have considered the existing non-molestation order which the mother obtained at the Central Family Court following an application which, unusually, was made during the course of these proceedings which were already running in the Nottingham Family Court. I am satisfied for the reasons I have already given that there is no basis now to say that the father has engaged in a course of molestation against the mother or that she would be running a risk of such behaviour if the order was not in place to justify the continuation of such an order. Indeed, the mother accepted that she lied about one aspect of the matter in seeking the order in the first place. When I bear in mind the gravity of such an order and the possibility that it will lead to criminal sanction against the father, that was a very deceitful thing for the mother to have done. I am satisfied, looking at the matter in the round, that that order can be discharged forthwith.
67. I also propose to discharge the prohibited steps order which has been put in place in these proceedings which will prevent the father as it currently stands, from removing D from the

jurisdiction for a holiday. I record, for the avoidance of doubt, that this case has proceeded on the basis that D is resident in the jurisdiction of England and Wales and that there is no proposal to remove her from the jurisdiction of England and Wales and that such proposal would require an application. However, it does not seem to me, in continuing to build the bond between father and daughter, that it is helpful to have a restriction on his ability to take her abroad for short holidays. I have heard nothing which suggests a continued need, therefore, for the making of a prohibited steps order.

68. Taking all of these matters together, I hope that I have addressed every matter on which the parties wanted me to deal factually and to resolve the issues between them. There are, as I have noted, some important matters which will need to go into the order dealing with provisions for contact, although again, I have set out the basic framework for that. I have set out the main orders and I am entirely in the hands of the parties as to what they want me to do today.
69. I am quite sure from mother's point of view in particular, that these things will be difficult to deal with. This has been an emotional journey for both the mother and the father. However, what I very much hope is two things: firstly, that in the longer term, they are able to continue to work together for their daughter and that these things form perhaps, an unpleasant vision in the rear window rather than a continued source of friction and difficulty between them going forwards as they look through the windscreen. Secondly, and importantly in the short term, that they need to be able now to have some short discussions about the contact arrangements and, either after a short adjournment now or certainly before the order is sent to me, need to be able to resolve the remaining issues with contact.
70. I think the way I am going to deal with this is that I am going to adjourn the matter now and invite counsel to have discussions over the next 20 minutes once everyone has taken stock. If the honest answer is that, if left for an hour, it is going to be difficult to agree these things on the ground, then the alternative is, I think, to invite Mr Duncan as the lead in this to draft an order; to invite Mr Peake to identify anything which is not agreed in the alternative and I will have to resolve the nuts and bolts of contact in that way.
71. Although this is less than satisfactory in one sense, I do not think that I can keep this case going and have everyone back on another date to deal with matters of contact. I have set out

the basic framework and what I am hoping is that the father is able to work his way around to one or two additional sessions of contact throughout the year which sustain the relationship between mother and daughter which I regard as important.

End of Judgment.

Transcript of a recording by Ubiquis
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