NEUTRAL CITATION NUMBER: [2024] EWFC 237 (B)

THE FAMILY COURT

SITTING AT OXFORD

HEARD ON 14TH & 15TH AUGUST 2024

BEFORE HER HONOUR JUDGE OWENS

M

And

F

Representation:

The Applicant represented by Mr Noble
The First Respondent represented by Ms Le Moine

This judgment is being handed down in private on 15th August 2024. It consists of 22 pages and has been signed and dated by the judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the children and the adult members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties and the child will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

Introduction

1. I am dealing with one child, A, who is 4 and a half years old. A's parents are M and F.
2. I dealt with a fact-finding hearing in this case in January this year and made a number of findings against F. I adopt my judgment from the fact-finding for the purposes of this final hearing.

Applications and issues

3. The issue for this court is what orders should be made about arrangements for A, and what other orders are necessary to protect M and A in light of my findings.
4. M agrees with the majority of the recommendations made by CAFCASS in a section 7 addendum welfare report dated 21st May 2024. She is asking the court to make an order for A to live with her, for A to only spend supervised time with F until such time as he has engaged with the course that CAFCASS recommend. She asks the court to consider making a Prohibited Steps Order to prevent F from removing A from the jurisdiction, and a Specific Issues Order to enable her to apply for citizenship and a passport for A in respect of an EU country. M also wants a Specific Issues Order permitting her to include her surname in A's surname so that A has the names of both of his parents in his name. M is also asking the court to make an order under section 91(14) order preventing F from making further applications under the Children Act 1989 in respect of A. Finally, M asks the court to extend the existing non-molestation order made during the proceedings.
5. F agrees that there should be an order specifying that A should live with M but does not agree that the time A spends with him should be supervised. He initially wanted A to stay overnight with him but amended his position to accept that this could not happen at the moment, does not agree that M's name should be added to A's surname, does not agree to M applying for citizenship and a passport in respect of another country for A, and wants the court to restrict M's ability to travel outside of the jurisdiction.

Background

6. The background is as set out in my judgment following the fact-finding hearing.

7. Since that hearing CAFCASS have completed an addendum section 7 report and a Dispute Resolution Hearing was conducted on 3rd June 2024. Since it was not possible to resolve the matter by agreement on 3rd June 2024, the matter was listed for this final hearing before me on 14th and 15th August 2024.

Evidential summary

8. I have had written evidence in the Bundle as well as oral evidence from M, F and the CAFCASS report writer, Ruth Alexander.

Relevant legal considerations

9. The court must consider the welfare of the child, and this must be the court's paramount consideration. The court must apply the relevant aspects of the welfare checklist contained in section 1(3) of the Children Act 1989.

10. Practice Direction 12J is also relevant given the findings in respect of F in this case, particularly the considerations in paras 35, 36, 37, 37A, 38 and 40. I have made findings that F subjected M and A to serious, sustained and very harmful domestic abuse. Those findings were set out in detail in my earlier judgment, but in summary I found that F was physically, psychologically and emotionally abusive towards M, subjected her to abusive or harassing communications and behaviour, and subjected her to controlling and coercive behaviour over a prolonged period. It is also of note that in the course of that domestic abuse, F also breached a non-molestation order designed to protect M and A, for which he was convicted in the Criminal courts and received a community order. As required by paras 32 and 33 of PD12J, part of the purpose of directing a report from CAFCASS after the fact-finding was to consider aspects of risk assessment and whether F needed to undergo any treatment or intervention designed to reduce the risks that he poses to both M and A in light of my findings.

11. I have also considered the case of ***H-N and Others (children) (domestic abuse: findings of fact hearings)*** [2021] EWCA Civ 448. Which in summary endorsed the approach outlined in PD12J both before and after fact-finding.

12. I have also had regard to the case of ***Re R (a Child) (Surname: Using Both Parents')*** [2001] EWCA 1358 since there is an application to add M's surname to that of F in respect of A.

13. I have also considered the case of ***Griffiths v Griffiths*** [2022] EWHC 113 (Fam) with regard to who should pay for any costs of supervised contact in the context of findings of domestic abuse having been made against someone seeking contact.

14. Section 91(14) and section 91A of the Children Act 1989 is also relevant given the findings and the provisions of Practice Direction 12J.

Analysis

15. Hair strand testing was directed in relation to F given that he has an admitted history of drug misuse, and this could be another added risk factor if it were to be continuing misuse. The hair strand test results report is at D37-48 in the bundle. Those results show no evidence of active cannabis use during the representative period but do show evidence of passive exposure to others consuming cannabis (D40 and D42). Despite F's written evidence at E7-8 claiming that the traces of THC-COOH detected could be explained by his use of products containing CDB oil, the report makes it clear at D47 that *"the sole use of legally compliant CDB products would not be anticipated to result in the detection of THC-COOH in the hair".* No written clarification questions were requested to be put to the hair strand testing company, and F accepted in his oral evidence to me when questioned by Mr Noble for M that he was around people consuming cannabis at times so it

does seem clear that the hair strand test results do show passive exposure to cannabis. Mr Noble asked F how wise it was for someone with his drug history to continue to associate with people using cannabis in his presence, but F's evidence about this was very dismissive saying that if he was going to relapse it would have been in the first 3 to 6 months of abstinence and he has been abstinent for more than three years. Given that drug use can be a significant additional risk factor in domestic abuse cases, and that F does have a history of significant misuse of cannabis, at the very least it really isn't wise for him to continue to expose himself passively to cannabis consumption, I find. Balanced against that is the fact that there is no evidence of active consumption on his part and the expert evidence confirms this. His failure to grasp that his passive exposure to cannabis consumption, and to continue to associate with those who use it, may be a concern in the context of this case and my findings about his being a perpetrator of domestic abuse is the most significant aspect of this part of the case. He continues to minimise his historic use of cannabis too, telling me that he smoked to manage his pain. This is concerning because such consumption is a) illegal, and b) would potentially decrease his inhibitions. He told me in his evidence that at times he allows his emotions to get the better of him, so anything that lowers his inhibitions makes it less likely that he will think before reacting emotionally. In turn, any risk of him doing that increases the likelihood of him repeating the same sorts of abusive behaviours that I have found he has perpetrated towards M and A. In my view it links to the evidence about his capacity to change in the CAFCASS addendum report and whether he has evidenced that he has made changes to reduce the level of domestic abuse risk that he poses to M and A.

16. PD12J para 36 is quite clear that I have to apply the various welfare checklist headings to this case by reference to the domestic abuse findings that I have made. In particular, I have to consider any harm that M and A have suffered as a consequence of that domestic abuse and which they are at risk of suffering if a child arrangements order is made. A court should only order contact if it is satisfied that the physical and emotional safety of M and A can, as far as is possible, be secured, before, during and after contact; and that M will not be subjected to further domestic abuse by F. I also have to consider the conduct of both parents towards each other and towards A and the impact of the same. In particular, I also have to consider the effect of the domestic abuse on A and the arrangements for where A is living; the effect of the domestic abuse on A and its effect on A's relationship with both parents; whether F is motivated by a desire to promote the best interests of A or is using the process to continue a form of domestic abuse against M; the likely behaviour during contact of F; and the capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse. Since I have made findings of domestic abuse, para 38 requires me to consider the CAFCASS risk assessment embodied in the section 7 addendum report and to apply the welfare checklist as noted.

17. The first relevant welfare checklist heading in this case is the ascertainable wishes and feelings of A in light of his age and understanding. A is only 4 and half years old. He is too young to independently and reliably articulate his wishes and feelings, though there is no dispute that he has said that he would like to spend longer with F. As is noted in the section 7 addendum report, A clearly understands that his identity involves both of his parents, and he clearly loves

both of them (D25). He specifically told Ms Alexander that his surname involved both his father's and mother's surnames (D25). He is noted to enjoy spending time with both of his parents (D29), but the report notes that he is too young to be able to fully express what he has experienced in the past and remains vulnerable because he is so young.

18. The next relevant welfare checklist heading is the physical, emotional and educational needs of A. There is actually no dispute in this case that A has an emotional need to know his identity from both sides of his family, and to have a relationship with both of his parents and this is not a case where any party or CAFCASS are suggesting that the risks are too high to enable A to safely have that relationship with his father. A has no additional physical or educational needs beyond those usual for his age. There is noted in the addendum section 7 report to be an issue about A's willingness to attend school and the potential impact on him of arrangements to spend time with F when A attends school full time, but it seems that this has not affected his education to date, and F accepts that arrangements would need to alter when A starts full-time school in September this year.

19. The likely impact on A of any change in circumstances is the next relevant heading. The section 7 addendum recommends that A should spend time with F on alternate Saturdays from 9am to 5pm, and when he starts school full time this September he should spend from after school to 5pm on Wednesdays. Both of these would be a change to the existing arrangements and would mean a reduction in time for A with F. However, Ms Alexander was very clear in her evidence that the existing arrangements cannot continue for A when he starts school full-time and risks harm to him because of the increased risks posed to

him during handovers by F in light of my findings about F's behaviour. If supervised contact is found by me to be necessary to protect A from risk of harm arising from further domestic abuse by F, then this would also be a significant change of circumstances for A. Ms Alexander accepted in her evidence that either the change arising from her recommendations or a move to supervised contact would adversely impact on A since it would mean that he would spend less time with F.

20. The next relevant checklist heading is the age, sex, background and any relevant characteristics of A that the court considers relevant. I have partly dealt with this in relation to A's identity needs above and already noted his very young age. It is also very clear that A has a rich dual heritage from each of his parents and, as Ms Alexander noted, he is *"well aware and appears proud of these parts of him" (D33)*. Part of his heritage from his father's side includes the fact that his father is a Muslim and speaks Arabic as well as English, just as part of his heritage from his mother's side includes that she comes from a Christian background and speaks a European language as well as English. As is noted by Ms Alexander in the CAFCASS report at D33 para 38, it is important that A's identity needs are met in all respects by both of his parents. This includes allowing each parent to explore with A their respective cultural and religious perspectives. M's suggestion in her final statement at E56, and in her evidence to me, that A should be left to adopt religious beliefs when he is mature enough to comprehend their significance ignores the fact that for F and A his religious and cultural identity will be inextricably linked and it is not possible to draw a clear line to separate the two. M has provided evidence that she is concerned about A learning prayers in Arabic without properly understanding the words. As I noted in clarifying this with

her, this is a common feature of many religions since children may be taught prayers when they are too young to understand the words and what they mean, and that could include Christian prayers in English. F also gave evidence that he uses the Quran to help teach A Arabic and I found him to be credible about this because this evidence did seem to be spontaneously volunteered and was (somewhat unusually for F in these proceedings) part of a direct answer to a simple question.

21. A will need both of his parents to support him in being taught about his dual heritage and identity and that will include his dual religious heritage. To some extent there will inevitably be a blending of what is cultural and what is religious given the countries and religions concerned. This is not at all uncommon. Of course, it will still be up to A when he is old enough to make a decision about whether or not he chooses to follow one or both religions of his parents, or he may choose to follow neither, but the point is that he has the right to know about both now and to then be able to make an informed decision when he is old enough. Both parents will therefore need to bear this in mind, and to remember and accept that A will be able to choose when he is old enough and his choice may be something else, entirely different to either of his parents' religions.

22. Part of A's identity is from his European heritage as I have noted. This is significant in the context of M's application for an order permitting her to add her surname to A's surname. As she sets out in her evidence at E57 and it is also something that I can take judicial notice of, this is a common practice in the EU country in question. F's objection to this seems to be because he somehow thinks this would make it easier for M to change A's full name in the EU country in question and to leave the jurisdiction with A and not return. He simply asserts

this in his written evidence at E18 but does not provide any objective or current evidence about this, relying in part on very old messages from M which, as Ms Alexander pointed out, seem to have been about what might be available in the EU country in question when giving birth to A. His evidence to me about the change of surname was, frankly, confused. He seemed to be arguing that this was something that would have no benefit for A since A's identity needs are currently more than met by frequently traveling to see his maternal family. He was also clear that A's surname did not affect his identity. This argument did not make sense to me because, if F was saying that his surname was not part of A's identity, why would it matter if A used both surnames? F also told me that he was not totally against the name change, just not now so it was something that could happen when A is older. Again, this aspect of F's evidence did not make sense, because if this could happen when A is older why not now?

23. F seemed to think that his objections to A being able to have an EU passport were inextricably linked to his objections to the surname change. I do not find that his fears about A being removed from the jurisdiction permanently are substantiated and seem based on his own irrational fears rather than anything that is properly evidenced before me. M has been to the EU country in question during these proceedings and returned, and it does not make sense that F now alleges that she may go to a non-Hague Convention country rather than the EU country in question when she has no established links to anything or anyone in a non-Hague convention country. In contrast, as M said in her final evidence at E58, A having an EU passport will enable him to travel more widely and freely without the need for visas to be obtained in advance and increase his potential consular protection abroad by giving him access to both British and EU support.

It seems clear to me that there are significant potential benefits to A in having an EU passport sooner than later and that F's objections to this are not ones that are based in any real risk of abduction. In fact, I am concerned that his objections to this are a part of his failure to fully recognise that A has a dual heritage including his family in the EU country in question, and that F's evidence making further allegations about M not being honest about where A has stayed in the EU country in question is a continuation of a pattern of his making wholly unsubstantiated allegations as a means of trying to control M and A. I am also concerned about the level of research into child abduction shown in his final statement in section E, something that Mr Noble submitted was significant. F's oral evidence to me about abduction was also difficult to follow and seemed in part to allege that because M had a mortgage for her property here, this somehow meant she was not habitually resident here and made it more likely that she would leave, something that would probably come as a surprise to many mortgagees and mortgagors. It does seem more likely than not on this evidence that F is the one obsessed with child abduction and this is very concerning when I remind myself that his country of origin is not a signatory to the Hague Convention on the Civil Aspect of International Child Abduction.

24. Any harm which A has suffered or is at risk of suffering is the next relevant welfare checklist heading. The findings that I made in this case were of F being physically, psychologically and emotionally abusive towards M, subjecting her to abusive or harassing communications and behaviour, and subjecting her to controlling and coercive behaviour. I have noted above my concern that F is repeating a pattern of making unsubstantiated allegations and that this may be a continuation of him seeking to coerce and control M and A. Both Ms Alexander in

her report (D32) and M in her final statement note that it is concerning that F continues to raise allegations about A suffering harm whilst in the care of his mother. F has produced various photographs of minor injuries to A as exhibits to his final statement. As Ms Alexander noted in her report these could simply be the result of an active young child playing normally and suffering the normal childhood bumps and scrapes.

25. I am also troubled that F thought it was appropriate to video A in the way that he admitted doing when interviewed by Ms Alexander (D26-D27). He admitted in his oral evidence that he had videoed A between 7-10 times which is an extraordinary amount of recording. He did say that he had recorded A without A being aware, but the sheer number of times makes this less likely in my view (remembering that he was talking about videoing A, not just recording sound). And even if he did record A without A being aware of it, this shows absolutely no insight into how A may feel when he is older about his father recording him. This, and his documenting various injuries to A, seem to me to be evidence of F focusing on gathering evidence to support his case rather than acting in a way that protects A from exposure to adult conflict. As Ms Alexander told me in her evidence, if F was concerned about any of the injuries to A, he would have raised them with appropriate professionals as soon as possible, not leave it to his final evidence in these proceedings. Photographing A and videoing him is drawing A directly into the process of evidence gathering to fuel further conflict between the adults in a way that a good enough parent would not do, I find. It is also a continuation of the sorts of behaviours that I found during the fact-finding hearing. As Mr Noble submitted, I found that F had retained an intimate video of M to use when it would have the most impact and cause the most harm. F's behaviour in

videoing A and taking photographs of his injuries shows a complete lack of insight about this being inappropriate and potentially abusive behaviour towards both M and A. It follows that lack of insight means he is at high risk of continuing these behaviours.

26. Ms Alexander noted that there is a significant contradiction between F's written evidence, particularly his February 2024 statement, and his comments to her about the findings made by me at the end of the fact-finding. As she said, it seems likely that when he is talking about these issues his true feelings show, as opposed to what he is able to take time to write. F's oral evidence to me about my findings was also confused and confusing, and it was difficult at points to work out if he knew that he was being contradictory or was simply trying to minimise and deflect. Mr Noble tried to go through the findings with him but F seemingly did not want to do that. It is striking that F also failed to have a detailed discussion with Ms Alexander about the findings. His evidence to me was that this was because Ms Alexander asked him for definitions that he could not provide, but my reading of the report is that it was more than that. As Ms Alexander noted at D29 para 22, F simply said *"no comment"* when asked about the findings of coercive control. Her evidence in that report and to me orally was quite clear and F simply refused to discuss anything about this. This accords with his oral evidence to me in this hearing in which he was either unable or unwilling to discuss the findings in any detail with Mr Noble when questioned. His written evidence was also lacking in any detail about what he may or may not accept. Whilst I acknowledge, as Ms Le Moine submitted, that acceptance and insight may take time and may not be linear, it is very concerning to read and hear evidence that shows F continues to minimise his actions and to blame

others, including Ms Alexander. Mr Noble submitted that F appeared at times to be saying what he thinks the court needs to hear, and it is hard to disagree with this interpretation. I note that he made reference to having apologised for his behaviour when talking to Ms Alexander and said the same in evidence to me. He also said in answer to Mr Noble that he thought that everyone should just focus on moving forward and what is in A's best interests. That completely ignores that both of those things require him to accept what he has done by way of abusive behaviour, to accept that what he did was wrong, and to accept that he needs to change his behaviour in future. This was F's opportunity to show me that he has reflected and made changes as he claimed, and he simply failed to do that. Instead, as I have noted, he continued to deflect, to minimise and to blame others.

27. It seems clear to me on the evidence at this point, which includes that of F himself, that he does not accept my findings, therefore does not accept that he did anything wrong, or that he caused harm to A both directly and indirectly through his abuse of M, and thus he has absolutely no insight into why he needs to change. It also follows, as Ms Alexander told me, that he is very unlikely to be accepted onto any appropriate Domestic Abuse Perpetrator Programme whilst he lacks this acceptance of the need to change. In turn, this means that there is no real timescale for him to be able to evidence that he has made the necessary changes to reduce the risk of harm to M and A arising from my findings and the risk that he will continue to pose to them of perpetuating further domestic abuse, particularly coercive and controlling abuse.

28. I was also concerned about F's evidence in relation to A travelling abroad with M. He offered in his written evidence to pay for both travel insurance and healthcare

as a means of providing some of the same benefits of holding an EU passport without having to obtain one. In his oral evidence he repeated that he would provide travel insurance. He also wants M to have to provide the address that A will be staying at when abroad. Mr Noble submitted that this is evidence of F trying to exert control over M and A. I agree with that assessment. He does not need to know the precise address that A will be staying at when abroad. All he needs to know are the dates of travel and the flight details to enable him to check that the flights have landed safely, and to know whether the time that he spends with A needs to change. In the context of findings that F has been coercively controlling towards M, it is deeply concerning that what F is asking would have the effect of limiting and controlling what M and A could do. This is not in A's welfare interests and, again, would be exposing him and M to further coercive and controlling behaviour.

29. I am also satisfied on balance of probabilities that, as M alleged, F has at times said things to A that are designed to manipulate him. These are telling him that F loves him more than M, and that he would be going with F on a holiday to France. As Mr Noble submitted, F's evidence about the latter was weak and not plausible and, whilst it is entirely credible that A would not necessarily understand the difference between a country and a city, it is does not explain how A came to think he was going to somewhere that had a completely different name on holiday, rather than a simple trampolining trip for the day as F said. It is entirely credible and plausible that F would say something to A about loving him more than M, given that I have found F does not respect M and clearly doesn't believe that she is capable of putting A's needs first.

30. In light of my findings, and F's complete lack of acceptance of them or insight into how harmful his behaviours have been and would be if repeated, it is clear to me that F poses a significant risk of causing A emotional and psychological harm. Despite Ms Alexander's assessment that these risks can be mitigated by reducing the duration and frequency of the time that A spends with F, I am concerned that the subtle and insidious nature of coercive and controlling abuse does mean that it could arise even in shorter and less frequent unsupervised times spent with A.
31. Parenting capability is the next relevant checklist heading. Despite the evidence of both parents at this point, as Ms Alexander made clear there is actually no evidence that either parent is incapable of meeting A's basic needs. The only concern in this respect is around F's ability to keep A safe from further domestic abuse.
32. Finally, the court must consider the range of powers available under the Children Act 1989. It is agreed that orders are necessary in this case, as Ms Le Moine and Mr Noble acknowledged in closing.
33. Taking all the above into account, I find that:
34. It is agreed that there should be a child arrangements order specifying that A should live with M. It is positive that both M and F agree this, and I agree that this is in A's welfare interests since it will provide security and certainty to both M and A about where A lives. This is important in a case where F started with a position that he wanted A to live with each of his parents 50/50 and in the context of my findings of domestic abuse.
35. It is also agreed that there needs to be a child arrangements order specifying arrangements for the time that A spends with F. As I noted earlier, this is not a

case where anyone, including Ms Alexander, is asking me to make an order saying that there should be no contact between A and his father of any kind. In closing submissions, Ms Le Moine confirmed that F now accepts that it would not be appropriate to ask me to make an order for A to stay overnight with him. Again, that is positive, but I remain concerned that he is perhaps saying this more because he realizes that the likelihood of a court ordering that is low, rather than because he really understands the risks that he poses to A.

36. The main issue about the time that A spends with F is whether this should be supervised or not. Ms Alexander was very clear that this is a delicate and finely balanced decision which, on balance, she felt landed on the side of saying did not require supervision. I accept that her evidence about this, both in her report and to me orally, was considered, careful and weighed the various risk factors. I also accept that, for a court to depart from such a recommendation does require good reasons. However, I have had the benefit of hearing F give his final oral evidence, Ms Alexander did not. I also had the benefit of hearing and seeing F give his evidence to me during the fact-finding hearing. I also note that, whilst a court must give very careful consideration to a risk assessment as required by PD12J, ultimately it is one part of the various factors that I have to apply in deciding what is safe for A in light of my findings. In this case I am very concerned that not only has F no insight about his abusive behaviours, but he has sought to continue them. In wanting to control what happens about A going abroad, trying to gather further evidence to show that M is harming A, and in refusing to acknowledge that A would benefit from having his mother's surname as part of his and from having an EU passport, he has shown me that he wants to continue to exert coercive control. I have noted that coercive control may be

subtle and insidious. I am also mindful of what Ms Alexander told me that the risks to A of being exposed to, and harmed by, F's abusive behaviours will increase as A gets older and starts to absorb and understand more of what F says and does.

37. Balanced against those concerns, it is significant, as Ms Alexander noted in both her report and in oral evidence to me, that A has had a very long period of unsupervised contact with F with no professionals noting any concerns. She qualified this in her evidence to me by noting that A is perhaps too young to have picked up on any more subtle abusive behaviours from F, and it is also perhaps too early to know how great an impact the abuse that he has experienced has had on him.

38. It is also clear from the evidence before me that requiring any time that A spends with his father to be supervised would be a significant change for A, one that would be difficult for him and therefore would affect him negatively. It would also be contrary to A's stated wishes and feelings, though his young age does mean that these carry less weight than for an older child. It would mean a much greater reduction in time and frequency than Ms Alexander recommended and would mean a change in venue and considerable travel to that venue. It would also result in A being able to spend less time with his paternal family, though supervised contact would still enable paternal family members to take part as Ms Alexander told me. It is just that the availability of supervised contact, the duration of travel and the need for F to also spend some one-to-one time with A would all combine to further reduce the time that A sees his paternal family. It would also mean that there would be a cost since supervised contact would have to take place at a contact centre, and there will be fees for that. However, I am

so concerned about the risk of F subjecting A and M to further coercive and controlling abuse, despite Ms Alexander's assessment, that I find unsupervised contact would be exposing A to an unmanageable risk at this point. Ms Alexander's own evidence to me was that if F were to subject A or M to further abuse this would be likely to cause A very profound and significant harm. As she said, it could lead to A becoming abusive towards M and potentially unable to have healthy adult relationships of his own, or it could lead to A not wanting to have anything to do with his father. Either outcome would cause him significant emotional harm, as Mr Noble submitted.

39. I have considered whether supported rather than supervised contact may mitigate that risk sufficiently to enable contact to take place in way that does not expose A to an unmanageable risk of harm. Ms Le Moine submitted that this was possible, but I am acutely aware that supported contact does not ensure the same level of oversight of F's actions and comments to A. Since that is the main risk that I have identified is present in terms of coercive and controlling behaviour, and that can be very subtle and cumulative as Mr Noble submitted, I do not find that supported contact would address this risk sufficiently to enable contact to take place safely. I therefore find that A's safety requires that the time he spends with F needs to be professionally supervised until F has completed a recommended Domestic Abuse Perpetrator Programme and has been subject to an updated professional risk assessment. This is very much in line with the expectations of the law in dealing with domestic abuse, but in this particular case is also what is required to keep A safe from a high likelihood of F exposing him (directly or indirectly) to further abuse of M by way of coercive and controlling behaviour. The supervised time that A should spend with F should be alternate

Saturdays for as long as the contact centre can accommodate during the day. Alternate Saturdays is actually in line with Ms Alexander's recommendations and would allow A to spend time at weekends with his mother as well as with his father, something that is going to become more important as A gets older, and his school week becomes more demanding. In ordering professionally supervised contact, I am aware that this will have cost implications as I have noted. Applying ***Griffiths v Griffiths***, F has been found to be the perpetrator of domestic abuse, and his evidence about lack of means is weak and lacking plausibility when I note that he initially failed to mention this in his written evidence and was offering to pay for travel insurance and some elements of healthcare. F has thus failed to show that he cannot afford the costs and, since it is his behaviour that means the costs have to be incurred, he should pay them.

40. It is in A's welfare interests for his surname to incorporate both of his parents' surnames, and it seems that they both agree about his mother's surname being first followed by his father's surname so I will make a Specific Issues order to allow M to change A's surname accordingly. For the avoidance of doubt, I do not find that doing this will in any way make it more likely that M would take A out of the jurisdiction but will allow A to have a name that clearly acknowledges that he is the child of both parents.

41. It is also in A's welfare interests for M to be allowed to apply for an EU passport for him without needing F's consent, so again will make a Specific Issues Order to permit that. I will also grant permission for her to show that order to the relevant EU authorities as part of making that application, though I do note that my jurisdiction does not extend beyond England and Wales so it may be that she

needs to take separate steps to ensure that order is recognised in some form in that EU country to enable her to make the application.

42. I will also make a Prohibited Steps Order preventing F from removing A from the jurisdiction. It is true that F has not made threats to remove A from the jurisdiction and has largely complied with court orders in the past (though notably not the non-molestation order). However, I was very concerned by his evidence about why he thinks that M might take A out of the jurisdiction and find that this says far more about F's mindset and intentions than anything else. He is clearly aware that there are countries that are signatories to the Hague Convention and those that are not, yet curiously does not anywhere acknowledge that his own country of origin is a non-Hague Convention country. And, in the context of coercive and controlling abuse, it is deeply concerning that this sort of obsession in his views may cause M to legitimately fear that he may be planning to remove A from the jurisdiction.

43. It is agreed that the non-molestation order should be extended, the only issue about this between M and F is whether that should be indefinitely or for a defined period. As I noted and Mr Noble and Ms Le Moine appeared to accept in their closing submissions, the issue of the duration of the non-molestation order is also inextricably linked to the duration of any section 91(14) order. F does not oppose the making of a section 91(14) order, which is also a positive indicator that he may be capable of realising the impact of his actions on M and A. Applying the considerations in section 91A, I am satisfied that an order is necessary to prevent F from making any applications under the Children Act 1989, including for enforcement, to protect M and A from the risk of harm from proceedings commencing before F has completed the required Domestic Abuse Perpetrator

Programme. Ms Alexander's evidence to me was very clear that the sort of Domestic Abuse Perpetrator Programme that F would need to complete would either be a 26-week RESPECT accredited programme, or something that was equivalent so it would need to contain the same elements and be of a 26-week duration. It is not in dispute that F would have to wait at least a year from the conclusion of these proceedings to apply for such a programme, and then the length of the programme itself would mean that it would be at least 18 months before F could have completed the programme. However, I am concerned that his level of failure to accept the findings and to show insight into his deplorable past behaviour and need to change mean that he may take longer to be accepted on any course. Ms Alexander suggested that any section 91(14) order (which she was also clear was necessary to protect A and M) should be for two years. However, this does seem to me to be a case that is one where I cannot fix a clear period on the duration of any section 91(14) order at this stage and, given the severity of the risk, find that an order that is made until F has completed either a 26 week RESPECT accredited Domestic Abuse Perpetrator Programme or a direct equivalent in terms of content and duration, is necessary and proportionate. The non-molestation order should be until further order for the same reasons, though this would require F to have to apply to discharge it, that could be done at the same time as any application for permission to apply for a Children Act Order with the necessary proof of completion of the course.

44. The duration of the Prohibited Steps Order to prevent F from removing A from the jurisdiction shall also be until further order for the same reasons.

45. I also find that it would be helpful for A to have a recital on the face of the order that M will in future ensure that background checks are carried out on any

lodgers. There is no evidence of any concerns about her existing lodgers, but that is not to say that future lodgers might not conceal things of concern from her, so background checks will prevent that in future and also remove a potential source of spurious allegations from F too.

Conclusion

46. F told me in evidence that he felt he had been made out to be the "baddie" in this. I would like to point out to him that he has been found to have subjected M and A to significant and sustained domestic abuse. Nothing justifies that, and the fact that he feels unfairly treated is further sad evidence of how little appreciation he has of how concerning his behaviour has been and continues to be. I would urge him to really reflect on what he has done and what he needs to do. He is the only one to blame for the outcome, and he is the only one who can make the necessary changes. He clearly loves A so I hope that he can learn to be a better person for A. That includes respecting A's mother and her ability to look after A.

15th August 2024