

IN THE EAST LONDON FAMILY COURT

Case No. CF22P00223

Neutral Citation Number: [2024] EWFC 252 (B)

11 Westferry Circus  
London  
E14 4HD

Wednesday, 14<sup>th</sup> August 2024

Before:  
HER HONOUR JUDGE SUH

B E T W E E N:

MOTHER

and

FATHER

THE APPLICANT appeared IN PERSON  
MS R NORGATE appeared on behalf of the RESPONDENT

JUDGMENT  
(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 SUH:

### **Summary of judgment in plain language**

1. This is my summary of the judgment. This is all about B and C, D and E and I have to put them first. Their welfare is my number one concern. Their mother has come to court because she genuinely wants to have a relationship with them all. She loves them and she has written a really thoughtful letter to them. Their father will support them having a relationship with their mother if and when they want to.
2. The children's wishes and feelings are very clear and powerful. They do not want to see their mother and they do not want to speak to any more adults about her. The children, particularly the older two have had a difficult start in life and they suffered harm in their mother's care. Since they moved to their father in 2016, they have not seen or heard from their mother consistently. She last saw B, C and D in 2016 and E briefly in 2018.
3. The mother's mental health goes up and down and she has moved around a lot so it is hard to know what her diagnosis is or how well managed her mental health is. That is important because she needs to be well enough to build a predictable and consistent relationship with the children. She has conducted herself in court with great dignity and is open to further therapeutic help. That is greatly to her credit.
4. However, the children have reacted really strongly in rejecting her emails and gifts and videos to them. I think it would be harmful to force the children to see their mother face-to-face when they are hostile to it and we have yet to establish a good rapport by email. I think it would backfire and undermine the chance of building a relationship in future. I think it is best that the mother writes to the children once a month.
5. I know that the mother wants them to go to school so they can fulfil their full potential. They enjoy home school and are settled and the Local Authority are not worried about it. I think it is best that their education does not change.
6. I cannot force the children to have therapy. I do not think they would want to speak to a psychologist and I think it is unlikely it would change what they want and how they feel at this stage. It would add delay and annoy the children. I do not think it is necessary to adjourn for a psychological assessment to resolve these proceedings justly.
7. The children's welfare means, I think they need a break from adults coming to check on them and from court applications. I think something needs to change before the mother is allowed to start new court proceedings. One such change might be that the children ask to see her and I think if she comes back within the next three years, she would need my permission to start a new case.

### **Letter to the Children**

This is my letter to the children:

Dear [names redacted],

Thank you for writing to me. I heard loud and clear that you do not want to see your Mum and you want people to stop bothering you. I take what you say seriously. I respect your views. Your welfare is my number one concern.

Your Mum and Dad came to court. Your Dad told me that he would not force you to see your Mum and that your views should be respected. Your Mum told me how much she loves you and wants to be in your life. [redacted] suggested that each of you could have an e-mail address and your Mum could write to you once a month and then it is up to you whether you read it and when.

I have finished the court case and I have decided that now is not the right time for you to see your Mum face to face. I do think that it is best for you if she sends you a message every month to your e-mail addresses and then it is up to you if you want to read it. Your Dad must make sure that you can read those e-mails whenever you want to. I have made an order that places a hurdle in the way of your Mum coming to court again during the next 3 years. I would look at what she says if she comes back to court. If things have changed, I could give her permission to start a new court case. One of the things that might change is if one of you tell her that you would like to see her. If things have not changed, I will not let her start a new court case.

I have listened to your voices and have put you first in making this decision. The e-mails that your Mum is allowed to send are like a bridge towards a relationship with her if you want it. It is up to you whether you cross that bridge and decide to see her in future.

You only ever get one Mum in your life. She loves you all so very much and misses a relationship with you greatly. She has had a difficult time and things have not been easy for her. “Well, things have not been easy for us”, you might say. You are right. Both of those things are true. But I want you to know that you are loved by your Mum. She is not perfect. None of us are. But you should know that she came to court not to upset you but because she genuinely does not want to lose the possibility of a relationship with you. I am clear that the choice of whether you want that relationship to develop, and when, is yours.

I wish you all the very best in the future.

With best wishes,

*Her Honour Judge Suh*

## **Judgment**

8. Today I am concerned with B, C, D and E. Their mother, [name redacted] and their father [name redacted] are both in court.
9. The children live with their father and there has been an indirect contact order between them and their mother in these proceedings.
10. I am very grateful to Ms Norgate for representing the father and for her very clear summaries of the law which have been provided in advance of the hearings.
11. This is the mother's application dated 14 July 2022 to spend time with the children. She also asked the Court to issue an application on 8 August this year for a specific issue order about education, an application to adjourn that she did not pursue and an application for a psychological assessment of the children.
12. The father made an application for a section 91(14) order.
13. I have heard this case on 8, 9, 13 and 14 August 2024.
14. The final positions of the parties are as follows. Cafcass say that the mother should send messages to each of the children by a bespoke email address and that the Court should make a section 91(14) order under the youngest child, E, is 16. The father agrees with Cafcass and he says he will send updates every three months with photos of the children. The mother wants more than anything to build a relationship with each of her children and see them face-to-face.

## **Background**

15. It is important to set out the background to these proceedings. In 2015 there were care proceedings and the children were removed from their mother's care. These proceedings concluded in 2016 with a child arrangements order for the children to live with their father. The final judgment in 2016 referred to allegations that the mother had made against the grandparents which the judge described as "completely unfounded". The mother wanted to adjourn the final hearing so she could do CBT and so the children could be returned to her. The judge referred to the mother changing her position regularly "without reason or warning". Her Honour Judge Atkinson made a 12 month supervision order. The order itself does not spell out the contact arrangements which were made for the mother but refers to a care plan of which I do not have a copy. The order records the mother did not sign the working-together agreement at court as proposed by the Local Authority and the judgment of Her Honour Judge Atkinson refers to monthly contact which could increase or decrease according to how the mother deals with the issues identified in that judgment. No mention is made of indirect contact in that judgment.
16. The mother points to a text of 19 July 2016 in which the father says, "unfortunately I do not permit phone calls" but he does refer to face-to-face contact being set up. It is not clear from the documents I have from of the Local Authority at this stage whether they supported phone calls or whether they were part of the care plan but the father's evidence was that if he did not permit phone calls it was probably because direct contact was inconsistent.
17. Sadly on 8 August 2016 the mother last had supervised contact with all of the children.
18. There was much discussion at court about many contacts were missed during the supervision order period and how many were missed specifically due to the father. I do not have the full Local Authority records of this period and each parent relied on documents that they were able to find. I do not have a complete set of Local Authority papers to assist me as to their contemporaneous position and analysis during this time. The mother was open in her evidence in saying, "I cannot really recall and my evidence is based on what the solicitors recorded on those contact dates that were missed. I do not have a strong recollection". She recalls a meeting with a social worker in which she said the father was being difficult but that is not recorded in the social worker's written evidence which has reached this hearing

- bundle. The father gave evidence on occasion the children were unwell so he could not take them to contact. He had no family support and was living in [redacted] at the time so if any of the children were poorly, all of them were unable to attend. The mother thought the father was using this as an excuse but I accept the father's evidence and think it likely with a group of four children that some of them may be unwell at times.
19. The 2017 social worker sets out a report on the progress of contact during the life of the supervision order. She reports that the contact was inconsistent and that the mother was unable to meet with the social worker due to her work commitments and did not want to travel in the evenings and for this reason contact stopped after having been supervised by the social worker. The social worker writes in 2017 that contact did not move to unsupervised because the mother had not done the therapy ordered by the Court. The schedule of the contact in the social work statement shows cancelled contacts and no steady pattern of a reliable contact taking place. This is the best evidence I have because it is a near contemporary note of the number of contacts offered and which took place. 14 contacts were offered and three of those took place. Some missed contacts are recorded as being due solely to the mother but other the reasons for other cancellations are more ambiguous and are not set out clearly in the social work records. The overall pattern, however, is not one of consistency however that is caused.
  20. The recommendation of the contact from the social worker at this stage, 2017, was that contact should remain once a month supervised. It seems to me that contact did not become established regularly for a number of factors. The mother did miss some and she did not want to travel in the evening and was trying to juggle work. The father did have little support and children do get ill. It seems to me that the mother's inconsistency was a key factor in why contact did not become more regular and established on the evidence before me.
  21. In 2017 the mother made an application to East London Family Court and further work was done with the children during these proceedings and the recommendation was contact every other month and letterbox contact twice a year as well as a monthly call.
  22. In 2018 supervised contact was arranged by the Local Authority. The three older children refused to go when they were taken by their father to the contact centre but E went in and he was aged two I think at the time. The father's evidence was he tried to encourage all the children to go in and gave E a lollypop to encourage him to go. The mother was critical of the father and thought he had not done enough but the records written at the time by an independent third party suggest the father did do his best to encourage the children to see their mother.
  23. There are differences of recollection as to why this contact did not become firmly established. The mother, in evidence, resented being asked to help the father with his taxi fare to contact, but whatever the reason, there was no firmly established pattern at this time. 2019 was the last time the telephone contact took place. Again there is a different of evidence between the mother and father as to why telephone contact never took place regularly. The father produced evidence of his attempts to call the mother and the mother in her evidence in the witness box says, "I don't think I was clear about the dates because if I was clear about the dates, I would've called".
  24. I do not think it is necessary for the children's welfare for me to reconstruct in granular detail why each and every contract did not take place but the fact is it was not firmly and regularly established. That did not benefit the children.
  25. The mother did not engage fully in the proceedings that she brought to East London Family Court. Therefore on 4 April 2019 they came to an end. The Guardian's final recommendation is that the mother should engage consistently with monthly indirect and

telephone contact. The mother had applied to adjourn the final hearing but had not complied with the directions to provide financial information and information about her mental health to help the Court make a decision. She disengaged from the proceedings and that application was ultimately dismissed.

26. The judgment of Her Honour Judge Atkinson noted the central issue is whether the mother is able to commit to regular contact and whether or not she is suffering any problems with her mental health. She failed to attend three hearings in a row.

### **These proceedings**

27. The current mother's application was made in July 2022. On 6 September 2023 I ordered that the mother must request a GP letter about her mental health to be provided by 25 October 2023. I ordered a section seven report. The mother made an application for the children's educational records and she wanted to have sight of all the educational records to ensure that the father had correctly registered with the Local Authority and that the children had got the education that they deserved. In November 2023 Cafcass wrote to the court to explain that they had not received the mother's GP letter so were asking to stay the requirement for a section seven report. In November 2023 I made an order that stayed that section seven report pending the provision of a GP letter. I, in December 2023, gave the mother permission to attend the hearing remotely if she wished and I ordered her to provide a statement setting out her mental health diagnosis, the services she has been involved with, her medication, her compliance and any therapy that she has received. She was also ordered to provide a letter from the crisis team locally about her engagement and support since February 2022. The father was ordered to provide redacted copies of the children's education reviews and the time for the section seven report was extended.
28. At the dispute resolution appointment on 9 April 2024, the father was ordered to send an update about each child to the mother and their likes and dislikes to help the mother communicate with them and to set up a bespoke email address. He also agreed to send a photo of each child and was to send an update on a four weekly basis. The mother was ordered to send a neutral apology letter to the children and then a letter or a card to them on a four weekly basis. She also had permission to send a short video and photos as well as small gifts. She has done this.

### **Procedure**

29. I need to set out some of the procedural issues in this case. The father made an application supported by medical evidence suggesting that he had a phobia of heights and so could not attend the sixth floor of this court building in East London. Therefore, on 9 August I sat at the Royal Courts of Justice and he came to give his evidence in person. We provided separately waiting areas and screen for the parents so that they could have their own space in court.
30. The mother became unrepresented on 6 August 2024 so I have tried to make sure that we take breaks, check that she has understood what was going on and I am satisfied that she is competent to proceed with these applications. She did not ultimately pursue her application for adjournment and she was able to respond appropriately to all the questions she was asked. She was clear and thoughtful in her answers and I do not have any concerns about her capacity. She sent me questions she wanted to ask the father in advance. Some of the questions she asked were not drafted in a particularly neutral way and I explained to her when questions were not relevant or needed to be rephrased. Her questions about the grandparents which I did not think were relevant, were quite emotionally charged and critical and showed a high level of distrust of them. Some of her questions could be interpreted as paranoid, such as her asking the father whether sending an email about her benefits or contacting the police for a welfare check was designed to trigger a mental health

crisis. However, other questions were entirely appropriate and I am satisfied that she has been able to put her case to the father and challenge his position fully.

31. When I look at the evidence, I look at the mother's application and in particular at the C1A that she filled in in October 2022. In that she alleges the respondent was physically, financially and psychologically abusive, coercive and controlling. I looked back at Her Honour Judge Atkinson's judgment and Her Honour heard about 22 allegations made by the mother about the father back in 2016. She found that there were verbal abuse and threats made by each parent against each other and an incident in 2015 outside a contact centre, in which the mother was the aggressor but otherwise her allegations were not made out.
32. I note that this is a case which does not attract the advantages of the Court being able to appoint qualified legal representatives and so I have done my best as the Judge to make sure that each party could answer questions with me putting the mother's questions to the father.

### **Evidence**

33. Cafcass was clear in evidence and she maintained her recommendations firmly. She was sent the medical report that the mother produced for the Court dated 31 July this year and was given overnight to read it and reflect on it because it was produced for the first time in cross-examination. She emailed the court clerk the next day to say she had not changed her view and did not need to come back to court to answer more questions about the medical report in particular. The Cafcass officer was unwavering in their evidence that a key concern was the lack of consistency on the mother's part in relation to contact and she took the view that because indirect contact had not been positive for the children, it would be very difficult to move to face-to-face based on their wishes and feelings. She did not take the view that the children had been alienated from their mother by their father and she denied laughing at the mother at any stage of the interview or acting inappropriately.
34. The father gave evidence in a considered manner and he was thoughtful in responding to the questions he was asked. He did strike me as very child-focused and wanting to ensure that the children's voices were heard. He was clear that he had always supported the children in having a relationship with their mother but her lack of consistency was the issue. He was clear that he thought that the children needed time so that they would want to see her and he suggested continuing letters and pictures so that when they do wish to communicate they will one day. He said, "I'm all for it when they do".
35. The mother answered questions with care and consideration. She gave the impression of thinking really carefully about the answers she was giving and was very full in her responses. Although tearful at times, she maintained composure and took part fully in the hearing, did not seek to duck any questions that she was asked. She made her closing submissions coherently and forcefully. Although she did come across as rather vulnerable at times within the hearing.
36. I want to say to both parents that it takes real courage to come to court and to answer questions and they both did so with great dignity and they both clearly wanted to help me make the right decision. I thank them for it.

### **Law**

37. I look at the law. The children's welfare is my number one concern and I should not make an order for them unless it is better than making no order at all. All the parties agree I should make a child arrangements order but the issue is whether there should be direct or indirect contact. The presumption is that unless the contrary is shown, the involvement of a parent in the life of a child will further that child's welfare. However, "involvement" does not mean any particular division of a child's time and means "involvement of some kind, either direct or indirect". I remind myself of the general principle that any delay in determining issues for the children is likely to prejudice their welfare.

38. I am going to deal with the application for a psychological assessment at the end because I am going to review all the evidence and then see if it is necessary to have that assessment to resolve these proceedings justly.
39. I remind myself that the Cafcass officer has no special status as a witness but I do need to give reasons if I depart from her recommendation.

#### **Welfare analysis**

40. I have looked at all the circumstances of the case and in particular the ascertainable wishes and feelings of the children in light of their age and understanding. The mother's concern that the father has influenced the children so I look with particular care at what they have said and in what context. They told the Cafcass officer that they would like to speak to her with him there but also that "daddy did not tell us what to write". The evidence is clear that the father left the room and it was the children who asked him to return when Cafcass was there. Each of the children expressed themselves to Cafcass in quite a distinctive way. For example, B's favourite foods are fish fingers and takeaway every week. He says he's good at Brazilian jujitsu and wrestling. He says that he likes his siblings, aunties, uncles and cousins who are important to him and living with dad and his siblings he says is where I call home. He says he feels annoyed and angry that mum keeps disturbing my peace with my dad. D spoke about being angry with my mum who keeps bothering me. C she says and I are good at doing different hairstyles, art and baking. They "feel frustrated our mum is bothering us and taking us away from her happy life with our dad" she says and "I have made it clear to everyone I do not want anything to do with her no matter what". E likes playing his tiger stimulator and he does not want to see his mother. The language in each of the children's letters is quite similar and I think C was the scribe writing down what they wanted to say. They refer to never changing their minds and this being their final decision and the younger two in particular may not have the maturity to understand the significance of never having a relationship with their mother.
41. It may seem odd that the children complain about their mother bothering them, because they have not seen her for so long prior to the Cafcass report. However, the police visited their property in 2022 and those visits did arise from some of the things that mother has said to the police particularly when she was not very well. Cafcass have made enquiries of the police but were unable to complete their full level two checks due to the lack of information about when and where the incidents took place but they took the view that the additional police information would not alter their recommendation.
42. The children's memories and experience of the police attendance in 2022 is I think significant. The Cafcass officer recalls that "during my conversations with the children, they spoke of these experiences as being frightening and upsetting". They spoke of "being scared and crying". In the mother's first witness statement, she sets out that a few months after she was sectioned in February 2022 the police scared her children late at night causing them significant harm. It seems to be accepted that the police did visit the children's home and that was somehow as a result of their involvement with the mother. It might be that they associate these upsetting police visits with her and perceive these visits as her "bothering" them.
43. Their letters to the family court were written in very clear and forthright terms and the older two children refer to people coming to talk to them and they seem to have a recollection of both the police visits and previous professionals coming to speak to them. C says, "We don't want anyone else coming to ask us questions, we just want to be left alone, please make sure you tell the judge".
44. The Cafcass officer looked for signs they had been influenced by their father but did not get the impression that they were rehearsed or influenced by the father. "The language they

used”, she said, “and their tone of voices were appropriate to how they were expressing”. In the witness box she said I had conversations with the children. “Yes, the father was present for those conversations but C and B were able to recall some of their experiences with their mother. They are aware of these proceedings and police attendance at the family home. They are aware the reasons that professionals like me are involved and they are aware of the inconsistencies and they are expressing their views because of their lived experiences”. This is consistent with what the Guardian recorded in the last set of proceedings, that B told her he did not want to see his mother “because of what she has done to us”. Cafcass did not see any signs that the father had influenced them when she was asked by Ms Norgate again about this in her oral evidence. This is a close group of brothers and sisters and of course the children may have influenced each other. The mother suggested as much in her closing submissions.

45. It is also telling that the children have maintained contact with their maternal grandparents with their father’s support suggesting that he is not opposed to the maternal family having a role in their lives as long as it is safe for them to do so.
46. The video that the children made when they received their mother’s apology letter is one that is really upsetting to watch. They tell their mother they wish her to leave them alone and they request that the judge stops dragging this on and bothering them and they have refused to watch the mother’s video or accept the gifts she sent and that must be deeply difficult for her.
47. I look at their emotional, physical and educational needs. There are no concerns about their basic care needs since they have been living with their father and the Cafcass officer met them at home and did not see any concerns about the father’s care. These children are home-schooled and have been since 2020. They told Cafcass they enjoy home-schooling and spoke about meeting other children in the park most days and attending a local library. They attend activities and enjoy basketball and swimming. B and C attend Brazilian jujitsu and they receive weekly Islamic studies and religious studies about other faiths. The Local Authority have no concerns about the home-schooling arrangements. In their most recent report they say “based on the information provide by the parent and the children, a suitable elective home education is being provided for the children”. The father expressed views that they would be stressed if they were made to attend school after they had agreed to home-schooling.
48. When I look at the children’s needs, they need consistency and stability and predictability given the difficult start they have had in life and they need parents who can be there for them reliably. As a result of their emotional needs there was a recommendation by the Guardian in 2019 that a referral should be made to CAMHS for play therapy. The father’s evidence was that he spoke to the school SENCo because the children were in school at this time and they said that the children were not showing signs of needing such support. B was referred to CAMHS and diagnosed with ADHD. This Cafcass officer did not raise concerns that the children needed a therapeutic intervention.
49. I look at the likely effect on them of any change of circumstance and these are children who have had a lot of changes. Their parents were together, and then they separated, they lived with their mother, then their foster carer, and then their father. They have had lots of changes of schools and home and periods when they have seen one parent but not the other. I think that them seeing their mother needs to be built on a firm foundation because that is a big change of circumstance for them given that they have not seen her for a number of years, and again, changing school would be a big change of circumstance for them and one which they would not welcome given that they have enjoyed home-schooling for the last four years.

50. All of these children are part of a sibling group and a wider family. They are British born and raised in the Muslim faith. The father is of Somalian/Yemeni heritage and their mother is white British and born in [redacted]. All of them are English speaking. I look at their ages, 14, 13, 11 and 9 and it seems to be that this sibling group is a close one in which the older children may influence the younger and I have already noted how C seems to be the appointed spokesperson for them at times.
51. I look at any harm that they have suffered or are at risk of suffering. The judgment of Her Honour Judge Atkinson sets out the children's early experiences living with their mother and there were, for example, a series of referrals made by neighbours by three different boroughs and from three different sources she says, who heard the mother shouting at the children between 2013 and 2014. One neighbour reported hearing the mother says, "You fucking little bastards, I hate you". B was four, C three, and D just over a year. Another neighbour reported the mother threatening violence and saying it was "horrible to hear". I do not read out those extracts from Her Honour's judgment to distress the mother but to observe that obviously this would have been harmful to the children. The mother's evidence to Ms Norgate suggested she did not accept this finding of Her Honour Judge Atkinson. The children are affected by shouting even when they are very young and the older two children in particular may have a memory of living with their mother which may be difficult for them. Similarly Her Honour Judge Atkinson described an incident of violence outside a contact centre during care proceedings in full view of the children in which she recorded that the mother assaulted the father. They have been exposed to harmful situations and that may well be part of the view that they formed of their mother now.
52. The judgment of Her Honour Judge Atkinson says "the children have been exposed to a very chaotic lifestyle and to emotionally volatile and abusive behaviour by their mother. They have been subject to verbal abuse by her. They have suffered what must be dreadfully frightening experiences in her care, culminating in the terrifying bloody mess that was, I find, in evidence on the bedroom floor following the unassisted birth of E".
53. The social worker did some direct work with the children in 2017. She showed them a picture of their mother. They got confused and asked if it was the social worker's mother. B then became upset and asked if it was the social worker's mother who stepped on his back. B was scared when discussing his mother and C seemed unhappy with their mother although they were persuaded to see her. The Guardian spoke to B in 2019 and he said he does not want to see mummy because of what she has done to us. C told the Guardian that mummy "was not very nice the last time we saw her". The Guardian picks up a sense of anxiety and ambivalence about the children seeing their mother. Her view is that the older two children do have clear recollections of the harm they experienced in her care. The mother does have some acceptance and insight into the harm that they have suffered in her care. When asked about the threshold in the care proceedings she said, "I accept my failures, I do acknowledge their experience, I don't diminish their feelings, I think about it every day but I do not totally agree". So her understanding I think is partial and it is not clear to me that she really understood the entirety of the impact of the past experiences on the children. I have already highlighted how she claimed it was false that she was shouting at the baby when Her Honour Judge Atkinson did find that it has happened. Why is that relevant now? Because it might be that the mother underestimates the impact that these early experiences have had on the children and have been formative in how they see her now. The lack of consistency in contact has also been emotionally harmful for them, no matter how it arose and how contacts came to be missed.

54. The father gave evidence he thought it would be harmful for the children to go against their wishes and force them to have contact with their mother now and he also thought it would damage their relationship, not only with her, but with him.
55. Her Honour Judge Atkinson described the mother as paranoid and emotionally volatile but at this time in court the mother was composed, courteous and never aggressive. There were questions framed and responses given that could be suggestive of her being slightly paranoid or suspicious but it was not as pronounced as before me as it appeared to be before Her Honour Judge Atkinson. I want to commend the mother for her conduct in court and for the progress I think she has made with her mental health but it would be harmful for the children to see her, if she happened to have a mental health crisis in the future or if her mental health led to her being inconsistent in her time with them.
56. When I look at how capable each of the parents are in meeting the children's needs it is clear that the father is meeting the children's basic care needs and there are no concerns for them in his care.
57. I want to look at the mother's mental health history because it is relevant to her ability to meet the children's needs for consistency and predictability. She needs to be in a good enough place to build a relationship with them. Parents who are diagnosed with mental health difficulties can be great parents and this Court does not discriminate against them but it is important to give a clear picture of how the mother is now and her history. Otherwise there is a risk that she may not be able to meet the children's needs for consistency and predictability and may dip in and out of their lives.
58. The father's understanding is when the mother saw a doctor in [redacted] and she was diagnosed with schizophrenia but he said she ripped the diagnosis letter up. The mother said she did not necessarily accept that diagnosis when she was in the witness box. The mother's own account differs as to what her mental health history is. She says in her witness statement she has come to accept that her mental health fluctuated in the previous private law proceedings. In her witness statement dated 16 January, she sets out her understanding of her treatment and diagnosis. She says she was diagnosed with PTSD, anxiety and depression during the court proceedings in 2016 and was recommended to do 12 sessions of CBT. She said she completed individual and group therapy with Talking Therapies in February 2017. Sadly there is no documentary evidence about this in the bundle, although the mother said she did receive a CBT letter and thought her solicitor had filed it.
59. In her second statement the mother says there is no diagnoses that she has a major mental health disorder and this was the position she maintained in the witness box. The mother relied on the report of the expert in the care proceedings and I think it is important to look at what Her Honour Judge Atkinson made of his evidence. She said that, "I am bound to say I found his written evidence somewhat lacking in depth and analysis, whilst his oral evidence before me completely undermined his credibility as an expert. I found myself in difficulty excepting all of his evidence without question". She says, "Where does it leave me having reviewed that doctor's evidence. It leaves me concerned that the mother indeed does have some undiagnosed problems over and above those which have been identified by Dr [redacted] in his written evidence. I cannot accept the on-the-spot assessment given by Dr [redacted] during oral evidence. I am quite prepared to accept that Dr [redacted] said it is right that the mother is suffering from a moderate depressive episode but I am unable to accept as you suggest that this explains her behaviours or her longstanding tendency to volatility and aggression and the paranoid view of the world and avoidance of figures of authority and that this can be successfully dealt with in 12 sessions of CBT".
60. When I look over the medical evidence with which I have been provided it is very difficult to discern what has been given as a diagnosis and what is self-report and what is the

mother's recollection and the mother has moved around the country with different treating teams. She sets out that she moved to [redacted] in 2017 and was prescribed Sertraline and received support from Mind. She says in 2018 she was diagnosed with depression and given antidepressants which did not take because she could not see the impact on her mood. In 2019 she said she was diagnosed with insomnia but she did not take the prescription medication at the time and explained that she was being stalked by her parents at this point in time. The mother reported being stalked or harassed was a feature of her report to Her Honour Judge Atkinson too and wrote a judgment of Her Honour Judge Atkinson describes the mother moving several times to avoid harassment by the police.

61. The mother says she did not have any contact with mental health services in 2019 or 2020. In 2021 she suffered from insomnia because she was being stalked by a violent individual and she attended her local mental health centre and was prescribed Risperidone but felt it was too strong for her. I can take judicial notice of the fact that Risperidone is an anti-psychotic medication. In 2022 she was again prescribed an anti-psychotic medication and she reports then being a victim of stalking and was admitted to the Hospital.
62. In February 2022 we see from the father's evidence that she had made an application for a non-molestation order that was dismissed on 10 February 2022. The court records that the mother has made a number of non-molestation order applications in the last 12 months against different individuals and has previously made a non-molestation application in relation to the father but failed to attend court in relation to that application. The court recorded they got an email from the mother via her solicitors. "Please cancel the hearing, I am sorry for making the applications to the court" and the application was dismissed as totally without merit. The mother explained in court she had made a mistake in issuing the non-molestation order proceedings because she thought the father was stalking her but in fact he was not.
63. However, that is slightly different from the position she took in December 2023 in her position statement in which she says she made the application as a result of the father's behaviour. Putting this in context, the mother was detained under the Mental Health Act from 11 February 2022 until March 2022. The Cafcass letter sheds some more light on this. They say in February 2022 the police had a referral which stated that the mother was detained at Manchester Airport under the Mental Health Act after contacting the police and reporting she had assaulted and killed one of the children. The witness statement the mother provided explained that the police were trying to prevent her freedom of movement and so they detained her and falsely imprisoned her. Then on 6 March 2022 shortly after being released from section, she attended Hospital with anxiety and insomnia and was given Lorazepam and Zopiclone. She reported in her witness statement a mental health crisis in April 2023. The letter from her community mental health teams sets out that during the time she was reported missing to the police and it seems that the community health team was under the impression that the police continued their search which included [redacted] and [redacted]. This may explain why the police attended the father's property looking for the mother.
64. The mother is now on Promethazine Hydrochloride which is an antihistamine sometimes used to treat insomnia. She says, "I'm currently receiving support from my support worker, my GP and DA services and referrals have been made at EMDR". In court, when I asked, she was clear that she was not on a waiting list but prepared to do further referral work. The community health team mentioned the domestic abuse work but not the EMDR and they suggest somewhat sporadic engagement from mother. At times she presents unwell and at the most recently entry though, December 2023, she was guarded and anxious but did not

- show delusional beliefs and her mood was stable. There is no mention in their letter about any form of treatment other than medication being provided to her.
65. The mother handed in a letter from the National Online Psychiatry Service dated 31 July 2024 which gives a diagnosis of PTSD. It recommends EMDR and trauma based CBT but no mention is made about clinicians seeing the mother's medical records and it seems that this may have been largely based on self-reports.
  66. Cafcass say they reviewed a letter from the mother's GP surgery dated September 2023 and a further letter dated 1 November. These letters, Cafcass said, detail a complex mental health history with anxiety, depression, self-harm, and possible delusional disorder or schizophrenia. I have not seen those specific letters but I have seen the letters on page 186 and 187 of the bundle. These are letters from the GP dated 7 November 2023 which puts a possible delusion disorder or schizophrenia as a diagnosis in 2021 and there is also a letter dated 25 January 2024 with a diagnosis question mark delusional disorder.
  67. When I look across the evidence, it is not clear what is a firm diagnosis and the mother has had a number of interactions with mental health professionals but not consistent care under the same team over a period of time. Cafcass are not mental health professionals and nor am I but the Cafcass officer says there were improvements in the mother's mental health, the mother reported to her, which she described as stable but as the Cafcass officer spoke to the mother, she says that she became increasingly concerned about some of her responses and that the mother says she struggles with her mental health "due to the actions of others". The mother shared that her neighbours have called the police a number of times when they heard her crying and according to the mother, she has had constant interference from the police in her life and describing being harassed by them. It is a theme of her own evidence that she attributes some of the deteriorations in her mental health to being stalked or harassed by others. I do not know the extent to which that is supported by other evidence. If it is, it is not in the bundle.
  68. I do not have a clear diagnosis therefore of prognosis and it seems that the mother's mental health fluctuates and that she has had a number of different treating clinicians and a number of different medications prescribed. Why is that relevant? Because it is really important that if she were to see the children face-to-face she is in the best possible position to build a relationship with them because they need her to meet their needs for consistency, predictability and stability. It is also relevant of course to her sending them emails. It is really important that if they are going to get an email once a month, they see that it comes into their email box regularly and that there are not gaps.
  69. Also part of promoting the children's needs is supporting a relationship with both parents. The mother's view is that the father has not promoted the children having a relationship with her but has acted in a controlling way. The burden of proof of course is on the mother to prove this. The father's evidence is that he has encouraged the children to see their mother and that their strongly expressed views are their own. The father consistently says he supports having the children with a relationship with their mother but he shared her communications with them. He has brought them to contact when asked to do so and he has in his formal position statement, and his actions, supported the children wanting to have a relationship with their mother but he says he will not force them.
  70. When I look across all the evidence I am not satisfied that there has been parental alienation in this matter. The father has, over a number of years, tried to help the children build a relationship with their mother.
  71. The mother too has tried very hard to reach out to the children and her letter to them is thoughtful. She is clearly trying to focus on things that might interest them and develop a rapport with them using the information that father has provided to her. It is a lovely letter

- in many ways and evidence of her ability to try and relate to the children and rebuild their relationship. They need her to keep on sending letters like this, to keep on reaching out to them and trying to find something that engages them, if they are to rebuild their relationship with her in the future.
72. Drawing the judgment together and looking at the Court's powers, the children's wishes and feelings are so forceful and so negative that in my view there needs to be a very careful rebuilding of their relationship with their mother before face-to-face contact is going to be a positive experience for them. That is why it is vital that their relationship with their mother is rebuilt at their own pace and evolves in a way that they can manage. If I imposed direct contact on them, I think that this would be very destructive of their relationship both with their mother and their father and would be counter-productive.
  73. It seems to me best that the mother send them a monthly email with gifts or vouchers if she wishes, and the father must ensure that the children have access to the tech that they need to check their email addresses as and when they want and that they are encouraged to read and respond to those emails whenever they wish. He must send updates every three months with photos of the children.
  74. I make it clear that I have considered the children both as a group of siblings but also as individuals. The younger two children, it seems to me, may well have taken the emotional temperature from their older brother and sister and their view of their mother may well have been influenced by this. However, to order contact for them when their older brother and sister are so opposed and in the face of their own clearly expressed wishes and feelings would not be in their best welfare interests. It is better than they are given a one to one opportunity to receive e-mails from their mother, to respond if they wish and to form their own view over time.
  75. I look at the mother's specific issue order application and the children have been home-schooled now for four years. The father's evidence is that is their choice and the Local Authority give evidence that a suitable home education is being provided. They record the Local Authority, that the children are keen to continue with their home education and the father gave evidence that E will be able to sit GCSEs and he will arrange and fund this. I do understand the mother's perspective that schools do provide access to specialist teachers, friends, structure and routine and I agree with her of course, that in order to do a work or an apprenticeship a basic number of GCSEs need to be obtained. I do think the mother's application is motivated by what she thinks is best for the children but it seems to me that the children are well settled in their home-school routine and that to force them into school would be something they would resent their mother for and so it is not in their best welfare interests but I do think the father should provided the mother with the Local Authority school reports as they come in with the name of the Local Authority and his address redacted.
  76. The mother's evidence that the children need therapy to rebuild their relationship with her and the Guardian did recommend this in previous proceedings. However, the father's evidence was that the school did not think that this was necessary, save for B who was referred to CAMHS and diagnosed with ADHD. I can understand why the mother would want them to have this therapeutic support in the hope that it might rebuild their relationship but the currently Cafcass view is that this was not necessary. I do not have the power to order the children to do therapy so unless they want to go, it would be unhelpful and counter-productive. The evidence suggests that this is not something they need at any event in the moment and I am satisfied that the father will be able to refer them if needs be.
  77. Should I make an order for a psychological assessment? Well, the impact it would have on the children's welfare would, in my view, entrench the children further against their mother.

They are unlikely, given their view of professionals, to want to cooperate with such an assessment. The issues to which the expert evidence would relate are their attachment with their mother and any psychological presentation but given that they have yet to rebuild that relationship with their mother, it seems to me that it is difficult to know what questions we would ask that psychologist. We have help from Cafcass already and the previous judgments given by Her Honour Judge Atkinson. If I granted permission for this expert, that would add great delay to these proceedings at a point where the children are very clear that they want them to come to an end. It is not in my view necessary to have that report in order to resolve proceedings justly. It runs a risk of further entrenching and alienating the children from their mother.

78. The section 91(14) order which Cafcass recommends until the youngest child is 16. The recommendation in the Cafcass report dated March 2024 is that the children need a break from litigation. The father made his application on 30 July this year and puts the mother on notice at the pre-trial review that he would do so. The mother has filed a formal statement in response to the Cafcass report and was legally represented at the time of its receipt and at subsequent hearings including the pre-trial review. She became unrepresented on 6 August 2024. The mother, therefore, has had legal representation during the time that this issue of the section 91(14) order was live. Ms Norgate set out the law about section 91(14) in her position statement. I have looked at the guidance in PD12Q of the Family Procedure Rules but the circumstances in which such an order may be made are many and varied. The welfare of the child is the paramount consideration and there are some circumstances in paragraph 2.3 of PD12Q which are particularly relevant to this case. It suggests that a period of respite may be needed following litigation where a period of time is needed for certain actions to be taken for the protection of the children or another person. I have reminded myself of the case of *Re P* (Section 91(14)) [1999] 2FLR573. That reminds me that an order can be indeterminate or last until a child is 16 but that should be an exceptional step, in effect it is saying that nothing more can be done and such an order must spell out what needs to be done and why. The degree of restriction that case says, should be proportionate to the harm that it is intended to avoid and as ever section 91(14) should be read in conjunction with section 1(1) which makes the welfare of the child the paramount consideration. The power of course to make a section 91(14) order is discretionary and I must weigh all the circumstances in doing so. I have looked at the case of *Re A* [supervised contact] (section 91(14) 2021 EWCA Civ 1749 case in which Lady Justice King pointed out that jurisdiction to make such an order is not limited to cases where parties have made excessive applications and that the landscape has changed since that case of *Re P* and there is considerable scope for the greater use of this protective filter in the children's best welfare interests.
79. I have reminded myself of the new provisions of section 91A of the Children Act and that the Court may make a section 91(14) order when the person named in order would put the child or another individual at risk of harm if such an application were made. The Court must determine whether it should grant leave if an order is made for permission to bring new proceedings and whether there has been a material change of circumstances since the section 91(14) order was made.
80. In my view it would be harmful for the children to be exposed to further applications unless that has been built up on a firm foundation of indirect contact and there is a greater openness within them to a relationship with their mother. Further applications and more professional involvement in the children's lives, would I think, make them more hostile to their mother and maybe entrench their views. It would be unsettling and harmful to their welfare to be exposed to future litigation unless there has been a change of circumstance. The mother's

evidence is, “If parents are going to lose their kids they will pursue contact no matter what. Maybe they don’t understand now the children but they might resent me if I didn’t apply and try and see them”. Having listened to her I am not reassured that she could refrain from future litigation.

81. What are the things that need to change in order for permission to be granted in the future? Well, I think the mother may want to look at EMDR and have a period of stability and consistent medical care and prescriptions which are given to her. Another thing that may indicate a change is if the children express a desire to see her and to rebuild their relationship by seeing her face-to-face.
82. I will reserve any future applications to me and any application would be dealt with on paper without service on the father in the first instance.
83. I should only make an order if it is necessary and proportionate. As D and E have not really had such a relationship with their mother as their older siblings have, and I have already looked at the possibility that they may have been influenced by their older brother and sister. If, as Cafcass and the father ask, I make an order until E is 18, that is seven years. I have looked at what is necessary and proportionate and I have looked at the children as individuals. It seems to me that B and C need time to enjoy their childhood without interruption and without further applications. They have made their views very clear and at the ages that they are, 14 and 13, they have a degree of maturity that maybe their younger siblings do not. I think it is right to make a section 91(14) order until C turns 16. By then D will be 14 and E will be 12. If the mother has been consistent with her indirect contact they may have changed their minds or have a greater openness to see her. That order in my view is necessary and proportionate to allow for the development of maturity on the behalf of the younger children and to establish indirect contact and it leaves open the possibility for the two younger children, when they have had three years of consistent communication with their mother, to at that stage, begin to rebuild their face-to-face contact and it means that the older two children have had a degree of respite until they are 16 years old. I think continuing a section 91(14) order beyond three years would be disproportionate on the facts before me.
84. I will refer in closing my judgment to my letter to the children and I hope that they will read it and reflect on it and that they will not close their minds to having a relationship with their mother in the future. Their welfare is the golden thread which has been woven into this judgment and I hope they understand that I have done my very best to put their welfare first.

**End of Judgment.**

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This transcript has been approved by the judge.