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**Neutral Citation No: [2024] EWFC 262 (B)**

Case No: SQ21P00173

**IN THE FAMILY COURT**  
**SITTING AT STAFFORD**

Stafford Combined Court Centre  
Victoria Square, Stafford ST16 2QQ  
Date: 3 May 2024

Before :

**DEPUTY DISTRICT JUDGE HARRISON**

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**Re: ELISABETH (COMPOSITE HEARING: SHAM PRENATAL TESTING)**

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**MISS VENTERS KC** (instructed on a direct access basis) for the Applicant

**MR BOTT** (instructed by Mark Redler & Co Solicitors) for the Respondent

Hearing dates: 17, 18 April, 3 May 2024

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## **J U D G M E N T**

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

**The date and time for hand-down is deemed to be at 12noon on 3 May 2024.**

DDJ HARRISON:

### **Summary of Findings and Orders**

#### **Findings**

1. From early 2019, M and F formed what was intended to be a committed relationship, after M left WJ. For at least 8 months, they lived together: first at the home of the maternal grandfather, and second in their own property.
2. WJ put pressure on M to return to him. A condition of this return was that WJ was to bring Elisabeth up as his own.
3. M knew that WJ was not Elisabeth's father. She told WJ this. WJ told her that if Elisabeth was not his child, he would leave her. M and WJ decided to lie about paternity.
4. M asked F to engage in paternity testing. F asked to wait until after birth. M did not accept this because she knew the result would show F to be Elisabeth's father.
5. M and WJ chose Prenatal Paternities Inc to undertake prenatal testing because they knew it was a sham, incapable of providing robust or reliable testing.
6. They did not complain when their dealings with the company were shambolic, because they knew it would be this way.
7. They chose this course of action to add a veneer of credibility to their lie.
8. M and WJ edited the so-called paternity certificate to put quietus to the question of paternity, thereby editing F out of Elisabeth's life.
9. In doing so, M and WJ have engaged in a deliberate plot designed to mislead F into thinking he was not Elisabeth's father.

#### **Orders**

1. Elisabeth will live with her mother and her father.
2. The care of Elisabeth will be shared between the parents on an alternating weekly basis. Sunday afternoons will be the handover times to embed a school routine in time for September 2024, and so Elisabeth is settled the night before she goes to school.
3. From September 2024, and by agreement, Elisabeth's school holidays will be split between her parents as follows:

- a. For the long summer holiday, the divide should allow Elisabeth two weeks with each parent so that she can go away on holiday with both families. The first two weeks will be spent with F, the second two weeks with M, and the final two weeks divided.
  - b. For holidays of one week, the week will be divided with Wednesday lunchtimes as the half-way point.
  - c. For holidays of two weeks, each parent will have a week each with Elisabeth. The pattern will change depending on the shared care pattern, so that Elisabeth avoids two consecutive week with one parent.
  - d. As Easter is a holy time in the Roman Catholic calendar, Elisabeth will spend every Good Friday – Easter Sunday with her father. Elisabeth should share this with F and her paternal family. This should be built into the two-week pattern.
4. Christmas will be alternated. From 2024, Christmas Eve noon to Christmas Day noon will be spent with F; Christmas Day noon to Boxing Day noon will be spent with M. From 2025, the reverse will apply, and so on.
  5. The prohibited steps application is refused.
  6. Elisabeth will attend a primary school in Staffordshire.
  7. Elisabeth is to be baptised into the Roman Catholic faith.

**The names used throughout this judgment are not the real names of the parties.**

**Introduction**

1. Elisabeth is just over four years of age. She was born in 2020 to Jane Jones and Peter Smith, her parents.
2. Elisabeth was described by a social worker in his case as a lovely, kind and affectionate young girl. As she has started to grow up, her parents and those around her have found her to be bright, and articulate. She likes her nursery, and in particular likes writing and playing with her good friends. Elisabeth is very much loved by her parents. They are rightly and immensely proud of her, and they both shine about her significant potential. Her father told me that the “World is blessed to have her.” Elisabeth is the most important person in this case, and her welfare is my paramount consideration.
3. Elisabeth is growing up to be a formidable little girl. The tragedy of this case is that, despite all that is to come in this judgment, M, William Jones (Elisabeth’s stepfather) and F are clearly doing something right. I hope that by drawing a line in determining the narrative background, the parents and WJ will move on and put the adult issues behind them.
4. This is my judgment at the final hearing of private child proceedings about Elisabeth. I will refer to Jane (M) and Peter (F) using shorthand for ease and continuity of reference.

**Background and procedural history**

5. This case began over three years ago. The proceedings were issued on 8 March 2021, and are now, astonishingly, in Week 162. The applications issued were for a declaration of parentage, a parental responsibility order, and a child arrangements order, there being a dispute between the parents prior to and after Elisabeth’s birth as to whether Peter was Elisabeth’s father. William Jones (WJ), M’s now husband and Elisabeth’s step-father was named as a respondent, as he was registered on Elisabeth’s birth certificate as her father. As it happened, this was not true.
6. The case was allocated to the Magistrates at gatekeeping on 9 March 2021, and a second gatekeeping appointment took place on 18 May 2021. A FHDRA took place on 5 August 2021 before a legal adviser sitting alone.
7. Between issue and August 2021, a further issue of Elisabeth’s schooling arose. F therefore applied by notice dated 24 August 2021 for a specific issue order to determine Elisabeth’s schooling arrangements. On the same date, F applied for a declaration of parentage.

8. A contested hearing took place on 4 November 2021. A parental responsibility order was made by Magistrates, alongside a declaration of parentage. Interim contact was ordered, alongside a welfare report. As a condition of this contact, M was not to involve WJ in the handover arrangements.
9. On 16 February 2022, the first dispute resolution appointment was held. The DRA took place before a legal adviser sitting alone, and therefore nothing other than an agreed contact order could be made.
10. On 2 April 2022, F applied to enforce the order of 4 November 2021 following allegations of M involving WJ with contact handovers.
11. A further DRA took place before magistrates on 21 July 2022. A progression in contact was ordered, as was an additional welfare report. Cafcass was given an extension on 4 November 2022 for the filing of its addendum welfare report. During this time, Elisabeth was found with marks identified as bruises, allegedly suffered in M's care. The local authority became involved. Cafcass prepared a risk assessment under s.16A Children Act 1989, and the case was listed for directions.
12. The case came before DDJ Thompson for directions on 9 December 2024. The judge reallocated the case to district judge level and directed that the risk assessment was shared with the parties and the LA. Following further correspondence from Cafcass about the bruising and the adequacy of the investigation, DJ Bailey (as she then was) directed that the local authority undertakes an investigation under s.37 Children Act 1989. Further orders in respect of the bruising investigation were made by DJ Hammond on 16 January 2023.
13. On 24 April 2023, the matter came before DJ Downey. A section 37 report remained outstanding, in default of compliance with the Court's order. Following the previous hearing, and significant concerns being raised by Cafcass about the adequacy of the LA investigation into the alleged bruising, F obtained an independent paediatrician's opinion from Dr Ranu. Dr Ranu suggested that the bruising was inflicted and non-accidental. F was ordered to state his case in respect of the bruising. DJ Downey ordered that a senior manager explain the failure to provide a Section 37 report in good time.
14. A Section 37 report was finally produced on 8 June 2023. A hearing was held on 10 July, whereby DDJ Bush made directions to allow the court to determine whether the bruising allegations could and should be litigated. DJ Dunn heard the matter next on 22 August 2023, with a final hearing being listed before me in November 2023, and the decision about whether the bruising allegations were to form part of this deferred until that hearing. By that hearing, F was inviting the Court to change Elisabeth's surname from 'Jones' to include his own. DJ Dunn

directed that a welfare report be prepared by the local authority to address the arrangements generally, and the issue of Elisabeth's surname.

15. On 20 November 2023, the matter came before me for final hearing. Having considered the evidence and reports, I was very concerned about the quality of the social work assessments before the court from the LA. In my view, they were superficial, and on many important aspects of Elisabeth's upbringing, for example her surname, there was no clear view expressed at all. The advocates were unclear about the ambit of the hearing given DJ Dunn's order, and what in terms of facts would be litigated. Further, there was uncertainty as to how (and whether) the court could determine F's allegations about M's conduct around Elisabeth's paternity. I was concerned that I did not have the complete picture of evidence to deal with this important issue effectively.
16. I reluctantly took the view that the hearing should be adjourned. I directed that Cafcass prepare a fresh welfare investigation into all contentious matters relating to Elisabeth and decided that it was disproportionate to take the bruising issue further.
17. Cafcass duly prepared a welfare report, with Alton Jarman's report dated 12 February 2024. A DRA took place before me on 29 February 2024. Some matters, such as a change of surname for Elisabeth, were agreed but the contentious matters crystallised as:
  - a. Where Elisabeth should live, and how often she should spend time with (or live with) the other parent;
  - b. Whether a PSO should be made to prevent M from removing Elisabeth to a non-Hague Convention 1980 country.
  - c. Whether Elisabeth should be baptised in the Catholic faith.
18. Baptism was a new issue, but I considered that it was sensible to determine the remaining contentious issues, thus avoiding potential future applications for Elisabeth. To save further delay and burden on the court administration, I deemed F to have made the application, and directed evidence in advance of this final hearing.

### **This hearing**

19. This final hearing has taken place as an attended hearing at Stafford County Court. The hearing took place on 17 and 18 April 2024, with a further listing on 3 May 2024 for judgment.

20. F has been represented by Miss June Venters of King's Counsel. M has been represented by Mr Jonathan Bott of counsel. My thanks go to them both for the care and skill they have shown throughout this difficult hearing.
21. At this hearing, I heard live evidence from Alton Jarman, Cafcass Reporting Officer, and from M, F and WJ. I heard oral submissions and had the advantage of short opening and closing notes from counsel.
22. At the end of the second day, I adjourned the case and reserved judgment. This is my written judgment. I sent it to counsel on 30 April 2024 for clarification requests in accordance with the Court of Appeal authorities. Judgment was handed down at noon on 3 May 2024 by MS Teams.

### **Parties' Positions**

23. F invites me to make findings of fact against M that she has attempted to eradicate him from Elisabeth's life. In support of this, F invites me to make findings that M falsified pre-natal DNA testing, and knowingly registered WJ as Elisabeth's father on the birth certificate. In respect of welfare, F invites me to order a transfer of residence so that Elisabeth lives with him. If I am not with him on this point, F invites me to order that the parents share the care of Elisabeth equally. F also asks for a prohibited steps order that Elisabeth should not be removed to a non-Hague Convention 1980 country, an order about Elisabeth's schooling, and an order permitting Elisabeth's baptism into the Roman Catholic rite.
24. M denies the factual allegations made by F. She invites me to order that Elisabeth continue to live with her, that there is no shared-care arrangement with F. Regardless of whether F moves to Staffordshire, M invites me to order a long term pattern of contact between Elisabeth and F of alternate weekends, and shared holidays. M opposes the prohibited steps order, considers that Elisabeth should be schooled locally at a primary school near to her home. M opposes Elisabeth's baptism into the Catholic rite.

### **The Law**

#### **Findings of Fact**

25. The burden of proof is on the party making allegations, in this case F. Allegations must be proved on the balance of probabilities. In other words, it must be more likely than not that the allegation occurred. The accused party does not have to prove anything (*Re B (Children)* [2008] UKHL 35).

26. Findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation. However, the Court can have regard to inherent probability. The Court may have regard to circumstantial evidence and give it such weight, individually or in combination, as it considers to be justified. The Court must consider all the evidence and consider each piece of the evidence in the context of all the other evidence. The Court surveys a wide canvas.
27. The evidence of the parents is of the utmost importance. It is essential that I can form a clear assessment as to the parents' credibility and reliability and explain in this judgment why their oral evidence was given weight or not in deciding allegations. In assessing the credibility of the parents, I have regard to the totality of the evidence and consider how it fits with the other pieces of the evidence, how consistent it is with the other pieces of evidence, motives of their behaviour, and of course how they gave their evidence and presented to me during the hearing.
28. I give myself a Lucas Direction. I remind myself that witnesses may lie for many reasons, such as shame, misplaced loyalty, panic, fear, and distress, and that just because a witness has lied about some matters does not mean that he or she has lied about everything.

### Welfare

29. Elisabeth's welfare is my paramount consideration. When I conceive of welfare, I must consider the checklist of factors set out in Section 1(3) Children Act 1989.
30. I have regard, of course, to section 1(2A) of the Children Act, the presumption of parental involvement.
31. I remind myself that Elisabeth and her parents have a right to family and private life under Article 8 of the European Convention on Human Rights, however, where there is a conflict of rights between the parents and the child, the child's rights prevail.

### Evidence

32. I have considered the bundle of documents running to 661 pages. In addition to this, I heard live evidence from Cafcass reporting officer Alton Jarman (RO), M, WJ and F. I have also considered opening and closing notes from counsel and heard oral submissions.



33. It is not possible during this judgment to refer to every strand of evidence that I have read and heard. I will refer only in this judgment to the evidence as I consider it to be relevant. If I do not mention a particular source of evidence or thread of evidence, that does not mean that I have not considered it and weighed it in the balance.
34. A number of ‘position statements’ appear in the evidence section of the bundle. I have disregarded these when analysing the evidence. They are not signed by the parents, nor do they have a statement of truth appended to them.
35. I will begin by setting out the evidence I heard, and my impressions of the witnesses.

Mr Jarman, Cafcass Reporting Officer

36. Alton Jarman (RO) is the Cafcass reporting officer. His report is dated 12 February 2024. The report makes the following recommendations:
  - a. Elisabeth’s surname should be hyphenated as Jones-Smith or Smith-Jones. This issue was dealt with at the DRA in February 2024 by consent.
  - b. There is no 50/50 or similar division of Elisabeth’s time between M and F given the distance between them, Elisabeth’s young age and her impending school start in September 2024.
  - c. Current arrangements should continue until Elisabeth starts school in September 2024, whereupon Elisabeth should see her father every other weekend, and split the school holidays.
37. In cross-examination by Ms Venters, RO was asked about the context of the case. RO told me that he was aware that Cafcass had come into the case late, and that he didn’t consider that it was for him to go through each piece of local authority evidence and challenge it – instead, he told me that he tried to provide the best analysis that he could to address the issues as they stood. He explained that this was the most sensible way to approach the task directed by the court without re-visiting decisions made by previous workers in the case. RO noted a theme in the Section 7 and 37 reports prepared in this case that they were “not always as robust as I might like.”
38. RO was asked why in preparing his report, he did not visit F. RO told me that he accepted that no visit took place, but “one of the things that came through was that there were no concerns about his accommodation... it’s not unusual where there are no significant concerns about housing for us not to visit and look into it.” He told me he only visited M because the child lives with her.

39. RO was asked about his conversations with Elisabeth. He told me that he did not explain to Elisabeth why he was there. He said the purpose of the visit was to see Elisabeth in her home environment, and her interactions with her sister. He said he did not wish to “interview her” although would have done had she been a little older. He told me he introduced himself, he gave her some colouring to do and let Elisabeth settle. He told me that he was cautious when asking questions of such a young child.
40. In his report, RO told me that “Elisabeth was able to tell me who she lived with.” Ms Venters asked about this discussion. RO told me that he called M into the room and asked how the important people in Elisabeth’s life are referred to. It was suggested that he asked Elisabeth about F as somebody who she spends time with, but not live with. RO disagreed; “I wanted to sense and engage her perception and understanding of the parent she didn’t live with. Elisabeth said she had fun at the house – she liked going.” It was suggested that Elisabeth might have picked up on the animosity between the parents. RO said “quite possibly yes” but that her answers about F were positive, that she was unhesitatingly warm about F, and excited about him. This although Elisabeth has plainly witnessed adult conflict.
41. RO was asked why he didn’t want to see F with Elisabeth. He explained that this was not to exclude F. He explained that there was a resource pressure on Cafcass which makes this more difficult.
42. RO was asked whether he considers the circumstances around paternity testing to be relevant to welfare decisions. RO told me yes. He was critical of previous social work interventions: “If I was the Cafcass officer at various points, things would have been handled differently. The way the surname was dealt with was wrong.” He explained that if I made adverse findings against M, it would “raise questions about the motivation and mindset of M... [which would] show a failure to prioritise Elisabeth.” When asked about M’s suggestion that F was badly intentioned, RO told me “I think given the duration of case and the path travelled, M has a belief that F might have been out to settle old scores, to redress the balance for wrongs he feels he might have been subjected to.” RO told me that F believes that he has been treated badly, and that the biggest loss for him is the possibility that he could have lost his relationship with his daughter. He told me, powerfully: “I don’t think it’s fully understood [by M] and accepted that the actions would have been so deeply wounding and hurtful. I think that is the catalyst.” RO told me that it did not appear to be the case that M acknowledged the harm to both F and Elisabeth. RO told me that had he been allocated to the case; he would have tried to find better ways to remedy the harm in this case much earlier.

43. In terms of what Elisabeth needs, RO told me that any Order should be prescriptive to avoid ongoing conflict. RO was asked about his recommendation around where Elisabeth should live. It was suggested that not seeing F and Elisabeth together put RO at a disadvantage. RO told me “The largest inference for me is not just the longstanding residence with M – it’s her half sibling. Any change of residence would mean separating (half) siblings, that is Elisabeth and her half-sister **Anna**. RO told me that he had considered F’s proposals of promoting regular time with Anna, but that such a proposal is “premised on there being a better and improved relationship between adults... I think [WJ] might have something to say about that... I would be very wary.” RO told me that a sibling relationship is one of the strongest bonds that children will have, and that it was important that Elisabeth had that ongoing relationship.”
44. It was put to RO that there was too much emphasis on the sibling bond and not enough on Elisabeth’s paternal bond. RO told me that F was thinking of moving to Staffordshire, but RO did not talk to him about this because RO didn’t want to be seen to influence his decision making. However, RO told me clearly and unequivocally that should F move to Staffordshire, his approach “would have been quite different. If [F] was to move to the area, this is close enough to have an equal shared care for Elisabeth.” RO was keen to emphasise that any split arrangements was ‘sharing care’, however, if F moved to the Staffordshire area, “that would enable him to have a much greater involvement, and for Elisabeth to have a greater involvement with him. It would be good for Elisabeth.” RO saw this as a vanguard against conflict in the future, which must “move forward” to ensure that the “conflict [does not] get worse.” RO plainly found the suggestion that F was nearby to be reassuring. He told me that such a move would overcome his concerns about the sibling bond, with the siblings being able to attend the same school etc. RO told me that the reason he did not recommend equal shared care, with other things being equal, was “geography.”
45. RO was asked by Mr Bott in cross-examination about F’s primary case of a transfer of residence. It was pointed out that this has not been pursued with any verve, RO told me that such a proposal would have a “profound negative effect” on Elisabeth, with Elisabeth’s life being grounded with her mother to date, and her sibling.
46. Mr Bott suggested to RO that the conflict in this case precluded shared care. RO rebuffed such a suggestion: “It could be difficult to manage – with blended families it is for the adults to explain to the children why something is happening. Children are quite resilient.” When asked about the potential of M moving abroad with Elisabeth, RO told me: “I can’t honestly say that I’ve seen or heard anything in my work with this family which would suggest that this was a plan by the mother – I would be grasping at straws.” He acknowledged F’s “genuine fear” but

did not consider the risk to be anything other than “highly unlikely.”

47. RO told me that he did not have a view about baptism. When I asked him for his recommendation about shared care, he told me he would support this if F moved to Staffordshire. RO was plain as can be: “Geography. The main barrier is geography. That’s the main barrier. I do not say that in cases where there is conflict that sharing care is not possible.”
48. I found Mr Jarman to be balanced and fair in his evidence. I make no criticism of the way he formulated his report or analysis – he went about the task drawing on his considerable experience and sound judgement. His evidence has been of huge assistance when I consider the state of the evidence before November 2023. In evidence, RO was quick to recognise the benefits which both parents offer, and was shrewd in his analysis of conflict. He plainly had Elisabeth at the centre of his formulation, and often brought his evidence back to Elisabeth and away from the adult issues when appropriate. Although RO did not support shared care, other things being equal in his report, he tempered his report with context about the importance of the sibling relationship and narrowed the key factors and considerations for me in a digestible way. I found RO’s evidence and analysis to be utterly compelling.

### The Mother

49. M prepared several statements in the case: 8 March 2022; 6 February 2023; 7 August 2023; 9 November 2023; 23 March 2024.
50. M gave evidence on the first day of trial. Shortly before her evidence began, M informed me that she was partially deaf. This was the first time the court was aware of this, and no participation directions had previously been provided. I adjourned for a short time to allow the loop system to be prepared, although unfortunately the loop system did not work. We changed the orientation of the courtroom slightly to allow M to use what she described as her “good ear”, and engage with the questions. She told me that she was happy to continue, although I offered to adjourn the case to the next day to allow participation measures to be put in place. I am satisfied that M could engage with the questions, and I reassured her that she only need say if she was struggling.
51. M affirmed her statements. In examination in chief, M was asked about the allegation that she had excluded F from the choice of primary school. She explained the process of applying for schools through a portal. She was asked about F’s faith – she told me that she did not ever see F attend church, nor did she consider F to be a practising Roman Catholic.

52. In cross-examination by Ms Venters, M confirmed the timeline of her relationships with WJ and with F. M told me that she used to work on ships and had met WJ on a contract in about 2015/16. She told me that the novelty of ship work wore off, and she was tired of not having a base. She said she wanted to settle with WJ and “give life a good go.” She told me she met F in 2017 through work on land, and they had a “relationship” in 2019. She limited the dates from March 2019 onwards. She told me that they rented a house together, although in “Mid-2019” that she returned to WJ. Given Elisabeth was born on 14 January 2020, she conceded that she would have been conceived between 25 March 2019 and 29 April 2019.
53. M was asked about the relationship between her and F. She told me that “January 2019 was a difficult time in my life – I was struggling personally. Work was very hard, I took myself down a rabbit hole... WJ has been a huge rock. I have hurt him and F deeply. I have taken – I am very sorry to the parties for my part in this.” She told me that “F was a great friend, a great ear, and I did care for him. But looking back I did not love him. I loved [WJ]. I could not let my feelings for WJ go. It was a very difficult time. I was seeing both of them and not being honest to either of them.” M told me that she led F to believe that WJ was pestering her, and that WJ had threatened to take his own life. She accepted she told F that WJ was controlling. She told me: “My actions were wrong for what I said. What I mean by that is – when you’re having an affair, you are the one that’s caused the issues. What I was trying to do was use WJ as my blame.”
54. M told me that when F and M lived together, F paid the rent, and that the tenancy was secured from a friend of M’s. M told me that she had a “lot of regret” and that she feels “guilty”, but that the time with F “always felt very awkward.” She told me “and within the guilt, I have always been transparent in everything that I do going forwards.” She told me of her desire to “make it up” to WJ, and that learning of Elisabeth’s paternity was “devastating” for WJ. She told me that “WJ went through grief – he’s almost lost a child.” She told me that she “broke WJ’s trust – in my eyes I was going to bring up this child alone, or with [WJ], so we made it – we had a joint decision. We would do *anything* (my emphasis) to keep each other’s trust alive, and that we should be open and honest with each other as hurtful as that is.”
55. M was asked whether she had explained everything she told me to WJ. She said that she had.
56. M told me that she is “very open” with Elisabeth about F, and that Elisabeth knows who her father is. At the start she said it was difficult to promote contact as M was “still breast fed.” M told me that she now tells Elisabeth that she is very lucky, and has “two daddies. The one you go to see is your real blood daddy, and the other one you share the half your blood with Anna with.” M told me that she

was trying “hard” to make contact work, but that it was difficult with it being COVID, and there being a need to keep to the bubble system. She told me that she suggested that they go to Victoria Park so they could walk and get coffee outside. She told me that her own mother was a good support.

57. When asked about the pre-natal paternity testing, M told me that WJ was “actively involved” with choosing the paternity provider. She told me that F refused to engage with the testing. She said “F did some research. I asked him about pre-natal testing. He said no.” M told me that she sent F scans during the pregnancy, in spite of the so-called testing, because “I like to keep people happy. I know it was wrong looking back. I wanted both men to be happy, this was a time I should have been happy. I was terrified, upset. I am ashamed of my actions.” She denied that she sent scans because she knew F was Elisabeth’s father. M told me that she sent the results and a “report”. When asked where the report was, M told me that “I did send that to my solicitors.” She was asked why she did not tell F or the court, until last year, why the certificate produced by the company had been doctored to change [WJ]’s name. She told me “We believed it was a typographical error.” She denied she did this to mislead and told me that the company got her email address wrong. M told me that the company sometimes used an official email, and sometimes used a ‘Gmail’ address to communicate with her. M saw no issue with doctoring the document.
58. M conceded that her and F had undertaken a pregnancy test together in 2019. She accepted that she sent scans to F. When asked about the pre-natal testing samples, she told me that it was “a card where we prick our fingers and put blood on a card – this is for both of us. We [her and WJ] did it together. We put it in a sealed envelope with our names.” M was asked why her description of the testing does not match the company’s website – she could not answer. She was asked again where the evidence was she claimed she had – photographs of the testing this time. She said she sent it to her solicitors. M denied the allegations put to her of the testing being a sham, and her altering the certificate being malevolent. M told me that the company told her that “it does not matter what the certificate says because it’s the same person who did the test.” She said, “it was [WJ] – it was only one sample.” M told me that her research has now shown Prenatal Paternities Inc to be a “terrible company”. She told me that she knew this testing would enable her to register Elisabeth’s birth with WJ as her father, and that other legal documents could be obtained using this document. When asked why she used this sham company, M told me: “In hindsight looking back at what we know now at test... I didn’t understand or know about any of the numbers. I didn’t know. People I was talking to and relying on, a company and I trusted in them.” She told me that she didn’t take any of the signs about the company as a “red flag.”
59. M told me that she next spoke to F in February 2020. She told me that F was asking about a test and the registration of Elisabeth’s birth. She told me that she

registered Elisabeth's birth on 27 January 2020 before she spoke to F. She said she did this because she "knew she would have nothing to worry about then – I knew that this was it."

60. M was asked about Elisabeth's knowledge of the case. She told me that she had told Elisabeth that she was going to court. She denied letting Elisabeth know of the dispute between her and F. She denied telling Elisabeth that she would not see F when she went to school, which is what Elisabeth repeated to her cousin. M told me about the home environment with WJ, and the presence of cameras. She told me that cameras were put in the home to protect her and WJ from further allegations.
61. When asked about contact with F, M told me that Elisabeth is in a "lovely routine" of seeing F. She told me that it was very hard at first seeing Elisabeth because she didn't want to go with F, but she now does. They have "moved on from this." She told me that Elisabeth does not talk about her paternal family because "she wants to protect you." She agreed that Elisabeth's paternal family all "love her very much."
62. She told me that F's proposal of embracing contact between Elisabeth and Anna would be "very sour" because of the state of the adult relationships.
63. In my view the mother was an appalling witness. She accepts that she has told lies on an almost industrial scale since 2018. I am sure that she continued to lie to me in her evidence. In many areas, as I shall explain, her evidence is internally inconsistent. Rarely did M give an explanation that matched either WJ, or the corroborative evidence in this case. I found her appeal to ignorance when under pressure to be a recurring theme – she would often say that she didn't understand, or she had given important papers to solicitors who had then lost it or failed to send them on. I formed the impression that M was abrogating responsibility for her actions when confronted with the evidence. I agree with Ms Venters that her evidence was "not credible and at times incredible."
64. None of the above is to question M's commitment to or her love for Elisabeth. She loves her dearly. Her pride in her wonderful daughter shone through her evidence. Of this I have no doubt. However there are times, as I shall explain, where M has made decisions at Elisabeth's expense.
65. I find it very hard to place any reliance on M's evidence.

66. WJ gave evidence on the afternoon of the first day of trial. He affirmed his statement dated 26 February 2024.

67. As a segue, on 20 November 2023 I made an order in the following terms:

*The Mother's husband [WJ] shall, by 4pm 26th February 2024, file and serve a statement detailing the following:*

- *His knowledge of the Mother's pre-birth paternity assessment*
- *His involvement in relation to the Mother's pre-birth assessment*
- *What samples were provided by him in relation to the pre-birth assessment and the circumstances in which such samples were taken*
- *What were the circumstances in which he became aware of the test results*
- *When did he become aware of the test results*
- *What is his knowledge and involvement in relation to the Mother changing the name from 'Jonezj' to 'Jones'.*

68. In cross-examination, WJ was asked why he did not comply with the order and deal with all of these matters. He said he was not aware of the order.

69. WJ was asked about the registration of Elisabeth's birth. He told me that he knew that he should not have been on Elisabeth's birth certificate once paternity was confirmed. He told me that he did not contact the registry because he was "not familiar with the process" and that "[Elisabeth] was my daughter as far as I saw it. I was devastated. I still see her as mine."

70. WJ was asked why he left the birth certificate as incorrect. WJ began to argue with Ms Venters that he "did not see that it was relevant, there were court proceedings." Ms Venters pointed out that this was some time before the court proceedings were issued. WJ told me that "F was threatening court proceedings long before Elisabeth was born. He made quite a few threats. He tried to threaten her into an abortion." WJ was asked about his knowledge of M's affair. He told me that when M moved out of the family home to live with her own father, they were "still in contact – messaging, calling, still sleeping together at the time." When asked if he knew M and F were living under the same roof, he said "No I wasn't aware." He said he thought it was a "friend from work."

71. WJ told me that he expected that M was not honest with him but was quick to point out that F had not been "honest either." I had to tell WJ to focus on himself more than once.

72. WJ also didn't know that F went to live with M and her own father in December 2018. He said that many ex-seafarers "struggled and had affairs." WJ did not know that M had told F that he was controlling, nor that he threatened his own life. WJ denied being controlling towards M, but accepts that he may have been "a



little bit... I felt [M] slipping away.” He did not know that M’s father had expressed concern that WJ would “murder” the mother. He did not know that M had sent F scan pictures through the pregnancy.

73. WJ was asked about the paternity testing. He told me that “I had some knowledge. When it came to it, I had a discussion with M. We decided on a company. They were cheaper.” He told me that he had never spoken to F about the testing, but that M told him that she had spoken to F, who had refused to take part. He explained that they both pricked their fingers and wiped the blood onto a ‘card’. He told me that he knew M had not obtained a sample by other means from F because “I was the one that sealed the envelopes. They were medical grade bags. It was just mine and my wife’s.” He told me that M was in touch with the company, and that he was told he couldn’t speak to the company about the results.
74. WJ told me he changed the certificate because “it was clearly an OCR software letter.” It was put to him that this was not appropriate – he said it was; “it was binary”. He told me that he didn’t think that this was an important document. He told me that he didn’t think F should have known about the certificate being amended.
75. I asked WJ if he told M that she could bring up Elisabeth with him as his, or alone. He said “During this time we talked about things. I don’t think we discussed it properly. It would have been difficult to go ahead for things to work around if the test results had been different.”
76. WJ is a difficult witness. His written evidence causes me some anxiety because it purports to be opinion evidence on the process of testing. I place no reliance on this aspect of his account.
77. In live evidence, WJ came across as thoughtful and highly intelligent. His vocabulary was impressive; as he floundered under cross-examination, he apologised to me for losing his “perspicuity.” He obviously found giving evidence very difficult and was plainly uncomfortable in being confronted with a myriad of facts which M had not shared. Despite being told some objectively upsetting things that his wife had done, he kept a cool demeanour. I did, however, find him to be preoccupied with how WJ was painted. When asked about his own behaviour – such as with the birth certificate registration – he attempted to employ rhetoric and pedantry as a weapon against the truth. He evaded important questions about Elisabeth’s life story. He also made claims that were made by nobody else in evidence, such as F allegedly threatening M into an abortion. It was difficult to know what was contrived, such as in my view his account of the testing process selection, and what he was repeating because he had been lied to. I agree with Ms Venters that his evidence was not credible; I felt that WJ was

preoccupied with protecting his and M's position, and attacking F, and did this to a point where I question the reliability of his account.

### The Father

78. F gave evidence on the morning of the second day of trial. He swore his statements as true: 1 March 2022; 17 July 2023 with appendices; undated November 2023; 26 February 2024 with appendices; 12 March 2024.
79. In chief, F told me that the first time he knew a prenatal test had been undertaken was when M sent the results.
80. F told me about the relationship between him and M. He told me that he paid for her to attend counselling. He told me that he knew her family and they got on, but he did not introduce M to his family because she was "not in the best place." He told me that M was unhappy with WJ. He said "she felt confused about the future, trapped and obligated to stay... she almost felt it would be selfish to pursue her own happiness at the cost of WJ's happiness." Nonetheless he described the relationship was "serious". He said he got on particularly well with maternal grandmother: "I will forever feel indebted to her [for her kindness in helping with establishing contact]. I am aware of her personal circumstances and cancer, and how she helped, and what she did – I can't thank her enough. Without her, I had already missed so many precious moments. I wouldn't have got the small snippets that I did get."
81. F told me that when he moved in with M, his own house in the West Midlands was being renovated. He therefore had nowhere else to go and stay. He said the opportunity was timely and M asked her friend if they could 'caretake' a house the friend was going to sell. The couple moved in. M would work "most evenings". F would regularly meet the expenses. Although they did not have a washing machine, F would ensure the laundry was done. The property was featured on BBC's 'Escape to the Country' whilst the parents were living there, and was filled with both their things.
82. F told me that contact between him and Elisabeth now is excellent. He described her as an "amazing little girl." He told me that a previous social worker said what a remarkable girl she was. He described her as a "real blessing" and an "absolute joy to parent." He told me of her achievements at a local climbing centre. He told me that Elisabeth was "the best thing that has ever happened to me."
83. In cross-examination by Mr Bott, F was first asked about Anna. F told me "With this situation, I have put time and thought into it. I do know many blended families in that situation. There are examples of where it has worked – what is

important is honouring Elisabeth's wishes. If Elisabeth is with me, it would not be an issue [for her to see Anna]." He said his hope was for some "fluidity" to "embrace all relationships."

84. F told me that he was worried that when Elisabeth started school, holiday time would not be adequate in allowing proper time with him. He doesn't believe in "good time" dads. He wanted to be there for her during important moments. He told me that his realistic position was for Elisabeth to spend about 50% of her time with F, and 50% of her time with M. It was put to F that this was a significant change for Elisabeth. F told me "through the proceedings there have been a number of adjustments and changes. I have navigated these and we are where we are now. With the right support, Elisabeth will be ok."
85. It was put to F that M can promote the relationship between him and Elisabeth. F flagged sometimes where agreements have not been stuck to (such as recitals about holiday time). He told me that he considered his integration into Elisabeth's life to be the key to maintaining the relationship.
86. With the paternity testing, F told me that he had discussed paternity testing with M. He told me that he told M that he thought that it should be after birth. He said that it should wait. He told me that he and the maternal grandmother thought that this was the most important thing for M's "comfort and welfare." He said had he realised pre-natal was thought about, he would not have asked so many questions after the birth about the agreed testing.
87. F told me that it was odd that the prenatal testing said that WJ was the father, but M continued to share scan pictures through the whole of the pregnancy. He said M would send regular updates when they were not together. He told me that contact between M and him dropped off close to the EDD, but he did not want to burden or pester M, so he did not contact her. He said "I started to think that maybe I was not wanted." He said it was particularly strange that M asked whether he had shown the scan pictures to the paternal grandmother if Elisabeth was not his baby. He said "I thought we had trust. Some people say love is blind. I was quite emotionally invested in the relationship. I had heard her concerns – I felt for her. I just wanted her to be happy."
88. It was put to F that M tried to promote contact before the proceedings. F told me contact was a maximum of 2 hours every fortnight. He said the maternal grandmother always wanted to give more time, but messages came from [WJ] trying to stop the contact. He told me that MGM told F that there was a tracker on her phone, and this is the reason contact had to stop or end at the right points. He told me that MGM said her messages were being read, and that at one point he thought that WJ had blocked F on MGM's phone.

89. It was put to F that M co-operated with him regards paternity testing post-birth. F explained that his solicitors wrote to her over several months. Many times, she did not reply. It was put to F that F has behaved obstructively towards M, such as trying to instruct a child psychologist or instruct Dr Ranu to investigate the bruising. F explained that the backdrop of concern had been set by Children's Social Care.
90. F was asked whether the distance between the parents was 'unworkable'. F told me that he was moving, and it would be fine.
91. Mr Bott put to F that he was not a practicing catholic. F told me "I don't know how M would know that. From my perspective she was working at night, away some weekends. Sometimes I pop into church at lunchtime." He was asked about why it had been raised late, and he explained that he never raised it because there was "so much going on." F was also asked questions about what Elisabeth would get from baptism that she would not get from church attendance.
92. F was a straightforward and reliable witness. I formed the impression that he was trying to help me to make the best possible decision for Elisabeth. This meant that he abandoned his primary case of a residence transfer during his evidence, recognising that Elisabeth needed some proximity to Staffordshire and M/WJ/Anna. F's pride in his daughter shone through. It was a joy to see him speak about Elisabeth.
93. F plainly found the experience of being in court to be emotional. This was particularly true when M was making claims that she did not "love him" etc. I was struck that, in spite of the difficult nature of the hearing, and unlike M and WJ, F always brought his answer back to his daughter. He would temper his thoughts by letting me know that he would adjust to Elisabeth, and he described things as Elisabeth would experience them – for example when asked about conflict and why Elisabeth might be saying different things to each parent. It was obvious that the proceedings have been an ordeal for him. I found his evidence to be compelling.

### **My findings**

94. Before I embark on my welfare analysis, I will begin with several preliminary observations about the contentious matters. I will consider first the relationship between M and F in this case and, second, the circumstances which led to WJ being registered as Elisabeth's father. It would be nearly impossible for me to dispose of this case without a proper appreciation of these matters, which form the context to the applications I must decide.

95. I say that because where I have two competing versions of events and this is the case, the Court must have recourse to other sources of evidence including the nature of, or any agreed facts between the parties, the context of events and allegations and, of course, contemporaneous evidence. It seems to me that the context in this case was so contentious that it, itself, required some determination. The context of the case took up a significant portion of the live evidence that I heard.

Parents' relationship with each other

96. The first significant dispute between the parties is the nature of M and F's relationship. This issue is intertwined with M and WJ's relationship. M was frank in evidence that she had been unremittingly unfaithful to both F and WJ.

97. I repeat what I said to M at the hearing – in determining this issue, I am not forming a value judgment about M's character or virtue. It was obvious through M's evidence that she holds a significant amount of guilt about her actions over this time. However, that is not for me to judge. I am simply determining the narrative background, as far as I need to go, to ensure that I can make the best possible decisions for Elisabeth.

98. M worked on cruise ships during her early working life. She met WJ between her penultimate and her last cruise ship contract. Her contracts would last between 9-12 months at a time. When she returned from her last cruise contact in early 2016, M began a relationship in earnest with WJ. They moved in together. M told me in evidence that she had decided to "give life a good go."

99. In 2017, M met F. They met at work. They became friends.

100. Towards the end of 2018, M moved out of the home with WJ, and went to live with her father. M made a number of allegations at the time that WJ was abusive, including:

- a. Telling Cafcass that WJ had "pushed her once" (although she told F that he "hit her").
- b. Speaking to F in December 2018 reporting abuse, causing F to email M at 09.20 on 8 December 2018 saying "was thinking last night about what you said about the trackers and cameras and thinking it's normal from what someone might be used to. But something doesn't sit right with me. I think it depends upon your reasons for having things. Most people might have a tracker on a loved ones phone in case of emergencies so that they know there location if something happens. Not to sit and monitor their every move. The same with cameras, my dad has cameras. But only to review if

something happens or the alarm is triggered. Again not to sit, watch, monitor and review on a day to day basis. Only when something out of the ordinary happens...”

- c. Emailing F at 22.15 on 30 December 2018 saying “I fight the control when I am strong. I’ve told him I’ve felt hunted and stalked and had my personal boundaries stepped over.”
- d. Emailing F at 21.55 on 3 January 2019 explaining that “[the maternal grandfather] thinks I am going be murdered.”

101. She described F as her “great ear and friend.” It is likely in my view that she was sharing her experiences in this way.

102. She accepted in evidence that she went to live with her own father, and then found a property with F. For a brief period, M and F were living with the maternal grandfather in his supported accommodation. In March 2019, M and F took a tenancy on a property for six months. The property was found by M and owned by M’s friend. F paid the rent.

103. M told me in evidence that she returned to WJ “towards the end of 2019” although during the time she was with F, she would meet WJ and they would continue to be intimate. She told me in evidence: “[F] was a great friend, a great ear, and I did care for him. Looking back, I did not love him. I loved [WJ]. I could not let my feelings for [WJ] go. It was a very difficult time within myself. I was seeing both, and not being honest to either of them.”

104. In evidence, M referred to her relationship with F as an “affair”. When asked about WJ’s controlling behaviour, and the allegations that WJ was pestering her, M told me that “when you’re having an affair, you are the one that’s caused the issues. What I was trying to do was use WJ as my blame for this.” Through her evidence, M minimised this relationship even though it harmed her credibility to do so. For example, she maintained in oral evidence that the relationship was not committed although they lived together. She maintained that the living arrangement was not a serious step of commitment because the couple did not have a washing machine. This did not add credibility to her suggestion that F stayed with her occasionally. Indeed, and as I shall come back to, M sent pregnancy scans and updates to F on a regular basis. In spite of M’s explanation that this was an attempt to keep “both men happy” whilst wanting “openness and transparency”, WJ plainly had no idea that this was happening until Ms Venters informed him during cross-examination.

105. F is clear in his evidence that the pair had a relationship, and not an affair. He is clear that this was supposed to be a serious and committed relationship. In my view it is inherently likely that it was intended as such, given the step taken by the

parties to take out a tenancy and live together. On M's own evidence, the couple took several serious steps. The suggestion that this was not committed is not credible – M sourced the tenancy, and F paid the rent.

106. Likewise, M was writing to F in certain terms. On 30 December 2018, she told F: "You are everything to me. Honesty you are exactly what I want..... I care and love you very much."
107. I accept that M may well feel guilt and shame about her dishonesty to F and WJ. I accept that she likely wants to move on from this part of her life, and indeed my impression is that WJ expected her to do so. This feeling of shame in my view affected M's ability to provide the court with an accurate touchstone of evidence. M told me that she was plagued by a feeling of "disloyalty" – WJ was clear that M continued to deceive him for a long time after, and it was obvious that she had done even up to this hearing.
108. All the threads of corroboration pull away from the reliability of M's account. I reject the suggestion that this was simply an affair. It is wholly inconsistent with the incontrovertible background facts. I prefer F's evidence.
109. I find that **from early 2019, M and F formed what was intended to be a committed relationship, after M left WJ. For at least 8 months, they lived together: first, at the home of the maternal grandfather, and second in their own property.**

#### Elisabeth's Paternity

110. Shortly after Elisabeth's birth, M and WJ registered her birth. A birth certificate was issued which stated that WJ was Elisabeth's father. M took the decision to register WJ as Elisabeth's father following a document purporting to be a "Prenatal Paternity Testing on Fetal (sic) DNA from Maternal Blood" by a company, Prenatal Paternities Inc, dated 24 June 2019. The certificate allegedly issued by the company bears the name of "William Jonezj" as the father. As has been accepted by WJ in his statement of 26 February 2024, WJ 'doctored' that certificate to bear his own name.
111. The decision to obtain a pre-natal DNA test was taken by M and WJ. It is contentious as to whether F was consulted on this decision.
112. M told me that in the Spring of 2019, she broached the subject of paternity testing. At this point, she will have been about 8-12 weeks gestation. At this point, she was in the early stages of living with F, and they had been in a relationship for some 4/5 months.

113. In her statement of 7 August 2023, M explained:

“[F] was requested to take part in a pre-natal paternity test which he refused.”

114. When giving oral evidence, she told me that they discussed paternity testing and F was clear that he wanted to have a test after Elisabeth was born.

115. In his evidence, F told me that he spoke to M about it, but said that he wanted a test after Elisabeth was born.

116. As I shall explain, I formed the view that it was plain and unequivocal to M early on who Elisabeth’s father was. She sent him scans before and after the purported testing; she asked F if he has shown her mother the scans. I accept F’s evidence that he agreed to paternity testing after the birth. Given M and WJ’s wish later on to reconcile their relationship, and in doing so exclude F from the picture, I am satisfied that M knew that F’s expectation was that testing would be done post-birth, and M was therefore running out of time to change the narrative of the issue.

117. Where M and F’s account conflict, I unhesitatingly accept F’s account. M’s account is confused and tainted by her own powerful emotions. I accept that there was a conversation about paternity testing. I do not accept that F refused; I accept that F considered that the matter should wait until after-birth, when more robust testing could be undertaken safely, and without further strain on M’s welfare. A reasonable position to take, although in my view M found this impossible to accept. It would not give her the answer she wanted.

118. M and WJ took the decision to instruct ‘Prenatal Paternities Inc.’. WJ in his statement acknowledged at the time that there were “a few negative reviews” of the company. WJ explains that he attributed this to “potential volunteer or negative bias, where individuals are more inclined to report negative experiences.” WJ, who purports to give opinion evidence throughout his statement, drew on his “extensive experience in Information Technology spanning over 20 years, with a significant portion dedicated to IT security” and his “[adeptness] at discerning genuine from suspicious online platforms.”

119. I have been taken by Mr Bott to the ‘TrustPilot’ page for Prenatal Paternities Inc, and a review page from ‘DNA Testing Choice’. The reviews prior to June 2019 make for viscerally painful reading. Although Mr Bott refers to the benefit of hindsight, WJ’s statement plainly refers to the foresight he had, and the significant due diligence he had done. These are public reviews, on some of the leading public review platforms. The reviews were obviously on WJ’s radar, as he referred to them in his statement (see “a few negative reviews”.) The reviews from the



Trustpilot page include (from before June 2019) excoriating claims of inaccuracy.  
By way of example:

“We used prenatal Paternities inc to determine paternity. The kit was sent with a a small peice (sic) of paper to collect blood. Sent off, 6 days later we got the report back with a positive match. The paper had 2 graphs both exactly the same. One claiming to be fetal dna and the other the paternal DNA. The report lacked detail and looked like it had been knocked up on a word processor.

Due to other reviews and the poor report we decided to use DDC, customer service was much better and sent two vials for blood, which made the piece of paper from PNP look useless. Results back from DDC say false match so the PNP was false. Very poor, do not use.”

120. Another similar experience from May 2019 referred to the shambolic test result and the subsequent fall out as being: “The most devastating and heartbreaking time of my life.”

121. I need not go on.

122. Mr Bott also referred me to an article from Canada’s CBC News from April 2024:

“A Canadian DNA laboratory knowingly delivered prenatal paternity test results that routinely identified the wrong biological fathers — ruling out the real dads — and left a trail of shattered lives around the globe, a CBC News investigation has found.”

123. Hardly surprising, one might think, from the sheer volume and temperature of publicly reviews available. WJ admits in his statement he considered these reviews as part of M and WJ’s decision to use Pre-Natal Paternities. I have no hesitation in finding that the information available to M and WJ would have shown that Prenatal Paternities Inc was a festival of the unreliable and the incompetent.

124. In her statement of 7 August 2023, M explained:

“The results confirmed that my fiancé, now Husband, Mr William Jones, was the father as I had initially expected. These results were sent to [F] however he did not appear to accept them. I was in receipt of contentious threats and aggression following this.

I did not see the point in another test as I already had the results. There did not appear to be any reason to doubt those results.

I decided to place [WJ] on the birth certificate as at the time they were the results I had, ie the results that showed that he was the father.”

125. Both M and WJ told me in evidence that they saw no reason to doubt the results.

126. Another of what M understatedly called a ‘red flag’ was the process of obtaining results. M said there were two barriers to this being done. The first was that after the test, but before the result, the testing company could not contact her as they had the wrong email address. It is clear from what purports to be a record that the samples were received on 13 June 2019 and testing was ‘in progress’ from 14 June 2019. These dates seem largely uncontroversial, and concord with the bank statement submitted by M showing payment to ‘Testing Services’ in the sum of 430 USD on 14 June 2019. However, on 31 May 2019, M was in email correspondence with the company email address: [info@prenatalpaternitiesinc.co.uk](mailto:info@prenatalpaternitiesinc.co.uk). She told me in evidence that she was also in contact with someone at the company using a ‘Gmail’ address, which itself could have been seen as a ‘red flag’. I believe her that there was indeed a mix-up. Not because it makes evidential sense that a company would lose an email address it was previously using to correspond with a customer, but because the company’s operation seems to be genuinely shambolic.

127. The second ‘red flag’ was the receipt of the results themselves. The company themselves issued what purports to be a certificate on 24 June 2019 certifying Elisabeth’s father as “William Jonezj.” What happened next aside, the company had issued what was a foundational document for this child in the wrong name. Again, genuinely shambolic.

128. The third ‘red flag’ is the method of testing. Although M told me in evidence that she had ‘photographs’ of the testing that she had “provided to [her] solicitor” – which were not produced despite my order to produce everything in connection with the testing, and a letter from the company – I have only M and WJ’s account of the method of testing. They described the extent of the test as a prick to the finger and smearing the sampled blood onto a card. The smeared card was then sent to a supposed forensic laboratory. Applying the gentlest of common sense to this, I fail to see how this is a robust or reliable form of paternity testing. At best, it could analyse a link between M’s DNA and F’s DNA. There was no suggestion that any sample or swab was taken *in utero*. Leaving aside the significant risks with such testing, in my view it should have been obvious to M and to her studious husband that such a method of testing was, at best, flawed, and at worst a

complete sham. The reviews of the DNA service refer again and again to the method of testing being flawed. M's own written and oral evidence does not describe the 'swabbing' element referred to on the Prenatal Paternities Inc website as being a necessary comparator for the plasma analysis, and it seems to be highly unusual to smear blood onto a card, as opposed to filling a vial of blood.

129. M and WJ's reaction to this atrocious service was to say nothing. They both told me in evidence that they did not complain. M simply had no answer for why she did not remind the company that she had paid nearly £400 for a service that the company was not providing. This was particularly noteworthy given M's self-proclaimed determination to resolve paternity as soon as possible.

130. WJ despite his experience and sobriety attempted to explain the issue as a "spelling adjustment", and gave what borders on an attempt to give expert evidence, speculating without any grounding about use of Optical Character Recognition, etc. I reject the suggestion that somebody as self-proclaimed assiduous as WJ – whose process of selecting the testing company included an examination of their margin of errors, and extensive research – would have accepted marked and repeated incompetence. On M and WJ's own evidence about themselves, it is inherently unlikely that they would have accepted such poor service. In my judgement, the only likely explanation for their inaction is that they were getting what they paid for.

131. The context of the relationship is another essential part of the picture. I have already made findings that M left the relationship with WJ in Winter 2018. M told me that as far as her pregnancy was concerned, she was either going to raise Elisabeth alone if F was her father, or with WJ if WJ was her father. These are two stark alternatives. At the end of his evidence, I asked WJ if he had given M this choice. WJ told me that they had spoken about the range of outcomes but could not recall whether he had given such an ultimatum to M. M was forthright in this aspect of her evidence. He described F at the time as "difficult" and "stressful". He told me that F was "messaging my wife a lot – we were trying to put things back together." The implication was that if F was the father, WJ would not reconcile with M, and their attempts to rebuilding their life would be over. The cuts between F and WJ run deep – It is in my view inherently unlikely that WJ would agree to raise the child of somebody whom he loathed.

132. It is obvious that WJ felt the pressure from this scenario. I am satisfied that M and WJ spoke about paternity, and I accept M's evidence that there was a choice between raising Elisabeth as a single parent or raising M with WJ. I am satisfied that WJ had at least implied that to M in their conversations, having felt the pressure put on the family by M. I am satisfied that the couple agreed that WJ *had* to be the father for the sake of their relationship and livelihood. I am satisfied that

WJ therefore put pressure on M about Elisabeth's paternity. As M told me in evidence, M and WJ agreed to do "anything" to keep each other's trust alive.

133. Did WJ know that he wasn't the father? WJ is an intelligent man. Simple maths reveals that M conceived Elisabeth between March/April 2019. Notwithstanding the frankly unevidenced contention that a relationship remained between WJ and M during this time, WJ will have no doubt realised that it was improbable that he was Elisabeth's father. After all, M had been living out of the family home for several months and had just moved in with F. Elisabeth's conception would have fallen in the 'honeymoon' period of M and F living together. M plainly knew that F was Elisabeth's father; I accept F's evidence that they did a pregnancy test together, and to corroborate that I note that M accepts sending F scans of her pregnancy. She did this whilst M and F's relationship subsisted. I reject the suggestion that this was an unwise and innocent act.
134. I have no hesitation in finding that WJ was as invested in the outcome of the paternity test as M. I have no hesitation in finding that WJ knew that he was unlikely to be Elisabeth's father. This explains why M and WJ were discussing the potential for this to be the case. This explains why WJ was setting out his stall in terms of their future.
135. Against that backdrop, and drawing together these threads, the only likely explanation for M and WJ's unreserved acceptance of the shambolic service of Prenatal Paternities Inc is that they had got what they paid for. I likewise don't accept as likely WJ's evidence that M told him that only she could speak to the company about the testing, and that he was fobbed off by M. In my judgement, given the knowledge that WJ had of the company at the time, and the pressure felt by both to resolve Elisabeth's paternity in favour of WJ, M and WJ selected Prenatal Paternities Inc because of their reputation for mishap, and the questionable reliability of their testing. In short, and in my judgement, it is inherently likely that they viewed Prenatal Paternities Inc as a 'gun for hire' capable of giving them the answer they craved, and adding a veneer of credibility to their plan to reconcile at the expense of F. I am driven to the conclusion that the entire testing process was a sham. In this regard, I reject both M and WJ's evidence. It is at odds with how they have described themselves, and with the context of the time. I agree with Ms Venters that M was afraid of "losing WJ".
136. I do not accept that only M knew of this. WJ cannot be described as "duped." WJ was thickly involved in the selection of the company, in providing a sample in a questionable way, in failing to challenge the shambolic, and in then editing the certificate to put quietus to any objections about the testing.

137. Ms Venters drew my attention to the company's website and in particular the samples which the company would test. It was put to M in cross-examination that she would have easily been able to retrieve some wayward hair or semen from F whilst they lived together, and it was further put to her that she sent alternative samples. I do not accept this. It implies a level of sophistication that is patently lacking from M and WJ's actions, and there is no direct or indirect evidence that such a subterfuge took place. If M was so determined to do this, it is likely she would have used a more robust testing company and method, such was her desire for finality in favour of WJ.
138. Acting on this lie, M and WJ were led to register Elisabeth's birth with WJ as the father. It follows from my findings that they did so knowing that this was likely not correct. Such an action is in harmony with their wish to rebuild their relationship by eradicating F from the picture.
139. For the avoidance of doubt, I have not formed this view of M's credibility because M has lied elsewhere. M admitted in her evidence to me that she had lied to both WJ and F. It was obvious through WJ's evidence, when aspects of M's account were being put to WJ, that WJ still does not know the full story. Of course, just because a witness lies about one thing does not mean that they are lying about everything. In this case, however, the sheer internal and external inconsistency of M and WJ's account, when weighed against the other evidence, leads me to the view that they have been wholly dishonest with the court.
140. Even when I consider what M and WJ did accept, which is that they doctored documents which were then relied upon to obtain a birth certificate, I agree with Ms Venters in submissions that neither M nor WJ appreciated the seriousness or significance of their conduct. Notwithstanding I have found their conduct to far exceed that which they did accept. Their actions during this time are incredibly serious.
141. Should there be any application for costs in respect of the Declaration of Parentage or PR applications, I would frankly have little trouble in finding that M's actions are at the most reprehensible of the spectrum of litigation and pre-litigation behaviour.
142. My findings are therefore:
- a. **WJ put pressure on M to return to him. A condition of this return was that WJ was to bring Elisabeth up as his own.**
  - b. **M knew that WJ was not Elisabeth's father. She told WJ this. WJ told her that if Elisabeth was not his child, he would leave her. M and WJ decided to lie about paternity.**

- c. **M asked F to engage in paternity testing. F asked to wait until after birth. M did not accept this because she knew the result would show F to be Elisabeth's father.**
- d. **M and WJ chose Prenatal Paternities Inc to undertake prenatal testing because they knew it was a sham, incapable of providing robust or reliable testing.**
- e. **They did not complain when their dealings with the company were shamolic, because they knew it would be this way.**
- f. **They chose this course of action to add a veneer of credibility to their lie.**
- g. **M and WJ edited the so-called paternity certificate to put quietus to the question of paternity, thereby editing F out of Elisabeth's life.**
- h. **In doing so, M and WJ have engaged in a deliberate plot designed to mislead F into thinking he was not Elisabeth's father.**

### My analysis

#### Where should Elisabeth live?

143. In evidence, Mr Jarman identified his recommendation for two equally likely scenarios:
- a. Should F remain living outside of Staffordshire:
  - b. Should F move to Staffordshire: The barrier to shared care in this case is solely geography.
144. As the hearing went on, it was clear that F had taken steps to move his life to Staffordshire. He informed the Court in November 2023 of his intention to do this. I directed some further evidence in relation to the timescales of a move. On 25 April 2025, I received an invoice from [a local lettings company], showing that F had paid a deposit on a holiday cottage in a small village in Staffordshire. I also received particulars of long-term rental properties, and correspondence from local estate agents about the efforts F has made. On this evidence, F is moving to Staffordshire imminently. I have therefore decided this case on the basis that F is moving to the Staffordshire area imminently.
145. The realistic options for the Court are therefore:
- a. Equal (or near equal) shared care with F in Staffordshire;
  - b. Elisabeth living with her mother and spending time with F;
  - c. Elisabeth living with her father in Staffordshire and spending time with M.

146. RO's recommendation in the eventuality that F moved to Staffordshire was for equal shared care. RO's clear evidence is that this will allow Elisabeth to go to school at the school at which she has a place, along with her half-sibling. It will ensure that both parents can play a meaningful part in Elisabeth's school life and share family occasions with ease. The impact on Elisabeth will be minimal because of the geography.

147. The level of parental conflict in this case is a recurring theme. RO had little to no faith that M/WJ and F would be able to be cordial with each other. Given the history, that is perhaps no surprise. M in her evidence admitted in effect to playing off F and WJ from the other one whilst she was pregnant – trying to maintain two relationships in secret. This has likely done irreparable damage to the prospects of cordial relations between F and WJ in the short term.

148. Regardless of whether M can adjust to co-parenting with F, I cannot ignore that WJ is a potent figure in M's life. M is certainly in a relationship where location tracking, and camera checking is the norm. Although M told the LA social worker that the cameras "need to be up given the allegations that [F] had raised", the family have had cameras in the house for some time before. These cameras were observed to be in the front room, hallway and other areas of the house; "excessive" as LA observed. One only has to call back to F's email to M of 8 December 2023 to find concerns from F that cameras were being used to "sit, watch, monitor and review on a day to day basis." In another setting, M's protestation that:

"[Cameras and location trackers] are an issue if you have something to hide. Not an issue if you are honest. Our home is a smart home. It is an issue when you are being dishonest"

may come straight from an abuser's playbook.

149. It is not proportionate for me to make findings on the nature of M and WJ's relationship. WJ was largely not asked to answer allegations that he is controlling, and that is not the subject of this hearing. However, I observe that there is plainly a power imbalance in the relationship. This imbalance in my view arises from the breakdown of M and WJ's relationship in 2018, and the obvious breakdown of trust. M has admitted wholesale dishonesty towards WJ, which is catastrophic for the prospects of a relationship built on mutual trust. They have plainly kept the relationship going with M submitting to tracking and monitoring. M's own evidence to me suggests that this is more potent than when they separated in 2018. In my view there can be some confidence that M's views about F are softer. WJ has strongly held and intoxicating views about F. WJ has an intense dislike and mistrust of F. It would be artificial to discount the likelihood that these strongly

held views may vitiate M's softer views.

150. I also must consider how M and WJ's relationship impacts on their ability to promote F's role in Elisabeth's life. I have serious reservations about both M and WJ's ability to recognise and respect the role which F plays. It was clear from M's evidence that she is committed to the process of reconciliation with WJ, and I have already made findings that in furtherance of this, she has already attempted to write F out of Elisabeth's life at birth. Whilst M told me in evidence that she really wanted to move on, and accepted the reality that Elisabeth would now be having regular contact with F, there remains a picture of concern.
151. It was suggested by M in submissions that regardless of my conclusions about M and WJ's role in the paternity issue, I can be confident that M will promote F's role in Elisabeth's life. Mr Bott prayed in aid that Elisabeth's view of contact between F and herself was 'fun', and that M has always promoted contact. It was pointed out that prior to the C100 being issued, M was offered contact between F and Elisabeth.
152. M's own evidence on this point is a little troubling. She concedes that her own mother acted as a go between. Indeed, F's evidence refers to the maternal grandmother having to intervene to ensure that F could meet and hold his daughter at the first contact on 13 December 2020. The incontrovertible text messages make clear MGM's view that, for example "[M] understands how you feel left out of Elisabeth's life – but it appears [WJ] seems to think your (sic) going to take [M] and Elisabeth away from him... such a mess." MGM later suggested to F that the contact offered by M was "not satisfactory for anyone... It's Elisabeth who will miss out." In evidence, M told me that she insisted on supervised contact, and contact was arranged to take place in Victoria Park in Stafford. Her own description of this contact was out of step with WJ's description. M told me that it was a lovely experience and that she tried to promote the relationship. WJ told me that this was a time where "Elisabeth was being taken from *us* by a person we've never met." He described it as "horrifying" and that the park was agreed because he was "scared of what [F] would do." He described how this was destabilising their plan to reconcile: "I thought it would be a lot less troublesome... [F] was messaging my wife a lot... We just wanted to build our life." This account adds significant weight to F's own evidence that MGM was being pestered by WJ with calls and texts to cut contact short. F told me that MGM told him that WJ has tracked his phone – this interestingly concords with a *modus* that WJ uses for M with tracking devices. F told me that WJ was reading the messages sent and at one point blocked her. It is easy to see how MGM's enthusiasm for F's role in Elisabeth's life would have angered M and WJ, who were trying to build their life exclusive of F, and in doing so relegating the past.



153. There was likewise a discrepancy in how M and WJ described the envisaged role of the paternal grandparents in contact.
154. Against the background identified by WJ, F's evidence that the contact was being frustrated makes perfect sense. I prefer F's evidence therefore to M's evidence. She has attempted to paint the contact offered pre-proceedings as an open-hearted attempt to include F. It was plainly not the case. I am further troubled by WJ's evidence because contact stuttered and was affected in spite of M's evidence that she was open to promoting contact and wanted it to work. If this is the case, it is further evidence of WJ's potency, and a reason to be cautious when considered M's intentions as a predictive instrument.
155. Elisabeth has obviously been affected by conflict. She is already saying different things to the parents. M told me in evidence that she did not talk about her paternal family because "she wants to protect you." She admitted talking to Elisabeth about "Court." This is a child who has plainly been exposed to conversations which are tearing her loyalties at a very tender age.
156. I temper this by acknowledging that there has been a progression in contact. It has been because of court orders that this has taken place, and M's compliance with such orders. M has complied with those orders and promoted contact accordingly. It may be that she now genuinely accepts the need to promote F's relationship with Elisabeth. Certainly, Elisabeth is aware of the conflict in the case. However, she is also positive about F and enjoys her time with F. This would not have happened without some degree of encouragement and reassurance from M, and I give M credit for this despite the history of the case.
157. The evidence about F's ability to promote M to Elisabeth is more positive – RO was much less concerned about F's ability to empathise with M, and he was about M's ability to recognise the harmful effect of her actions on F and Elisabeth. It was suggested by Mr Bott to F in evidence, and to the court in submissions, that F bears some responsibility for the poor relationship because of how he acted around the 'bruising' issue. F was criticised for obtaining an independent paediatric report in respect of the bruising and criticised for suggesting that M had caused this bruising.
158. I remind myself that after the bruising was identified, and the local authority carried out its initial enquiries, the Cafcass officer (not Mr Jarman) excoriated the quality of the investigation. In a Section 16A CA1989 risk assessment dated 9 November 2022, the officer noted: "Due to these injuries sustained over more than one occasion, there is a concern around consistencies of accounts a clear picture of how these injuries occurred." In his letter to the court dated 13 December 2022, the officer said:

“There is still a significant concern that we have a child with a number of injuries, whereby the CP medical forensic timeline has past (sic), and which have not been investigated appropriately which is the most pressing issue with this long standing and protracted case.

...

I am therefore I am still not in a place to consider any safe recommendations for contact until we have a LA and police perspective, which I believe should be either a strategy discussion to consider threshold of a joint S47 investigation or the Court consider requesting a S37 report from the Local Authority.”

159. Against that backdrop, it is very difficult indeed to criticise F’s decision to approach Dr Ranu. I will not rehearse the reasons set out by F for his decision at para 22 of his statement dated 17 July 2023. In my view, the reasons advanced by F represent an appropriate response to a background of significant professional concern about non-accidental injury, and the quality of the investigative work carried out hitherto. I do not accept M’s criticism that the instruction of Dr Ranu was in any way incendiary, and I do not agree that this fact can undermine my faith in F’s ability to promote a relationship with M. F in his evidence was sincere about his wish, for example, to promote a relationship between Elisabeth and Anna – notwithstanding the animosity. Given the strength of WJ’s view, in particular, this may be difficult to contemplate, but it was at least evidence of F’s wish to move on.
160. Conversely, M can be criticised for how some decisions have been taken within the proceedings. For example, she applied for Elisabeth’s school without consulting F as to the options or choices. She continues to try to exclude him from important decisions about Elisabeth.
161. I therefore have significant concerns about M’s ability to promote F’s relationship with Elisabeth.
162. The second significant barrier identified by RO was Elisabeth’s potential separation from Anna. Anna is Elisabeth’s half-sibling – the only child of M and WJ. She is not the focus of this case, but from what I have read she is a delightful little girl. She loves her sister, Elisabeth, and Elisabeth loves her. She is a year younger than Elisabeth. In his report, RO noted:

“Observing Elisabeth and her sister it is very clear that the two children have a close relationship and stayed close to each other. This will be an important consideration for the court when determining where Elisabeth should live.”

163. In evidence, RO was equally effusive about the quality of the sibling bond, and the importance of maintaining a closeness between them. RO described this as one of the most enduring bonds. RO cautioned me against ‘separating’ the siblings.
164. Given RO’s concession that the key was ‘geography’, it was obvious that RO did not consider a shared care arrangement where the parents were in the same proximity to be separation. RO commented on the ability of Elisabeth to attend her sibling’s school, to share important time with her during life events, and during Christmas and other holidays, and indeed during incidental time together at home. RO was plainly satisfied that the sibling bond would be protected during a shared care arrangement with both parties in/near to Staffordshire. He told me that such a move would overcome his concerns about the sibling bond, with the siblings being able to attend the same school etc. RO told me that the reason he did not recommend equal shared care, with other things being equal, was “geography.”
165. I have some concern about the suggestion that the sibling relationship should be prioritised over and above the relationship with F. I reject the suggestion that shared care jeopardises such an arrangement, although I acknowledge that geography makes this a little more challenging. The relationship between Elisabeth and Anna is important, but her relationship with F is as important, if not more important, for her identity and sense of self. Her relationship with F opens up not just an enduring bond, but bonds and enrichment from a whole side of a family, all of whom will contribute to the tapestry that will be Elisabeth’s identify and life.
166. The issue of geography is now dealt with, as I have outlined. F will be moving to Staffordshire. I therefore take RO’s evidence to recommend that equal shared care is the appropriate order in this case, the ‘geography’ hurdle having been overcome.
167. If Elisabeth remains with her mother and spends time with her father on what in my view would be a limited basis of alternate weekends, I have significant concerns given my findings that such an arrangement would be sufficient in meeting her need for a fulsome and meaningful relationship with F.
168. The suggestion that Elisabeth should live with F full time was not pursued with any vigour. RO’s evidence was that such a move would have an overwhelmingly destabilising impact on Elisabeth. It would displace the threads of stability she has woven over her short life, which would in turn require pragmatic and co-operative parenting to ameliorate the harm. Such an option would require cordial relationships between F and M/WJ to ensure that the bond with Anna – who is an undeniably important person in Elisabeth’s life – is not

fractured. Against that backdrop, it seems almost impossible to contemplate the parents working together to ensure that a transfer of residence to F's care is protective of Elisabeth. An equal shared care Order would not have such challenges, because the threads of stability woven by Elisabeth would be maintained, albeit Elisabeth would need to adapt to a good amount of her life being with F.

### Schooling

169. Schooling was a live issue at the DRA. F was asking the Court to direct that Elisabeth attends a Roman Catholic Primary School near to F's current home in the West Midlands. As it happens, F has signalled his intention to move to Staffordshire. There would seem to be no dispute as to where Elisabeth should go to school and, in my view, she should attend the school at which she has a place.

### Should there be a prohibited steps order?

170. M submits that she, WJ and her children are settled in UK. Although she is from Zimbabwe, she reminds me that she has not been to Zimbabwe for several years, and that only peripheral family members remain. M submits that "safeguards such as notification of travel arrangements including confirmation of return tickets" should suffice.

171. F puts the position with appropriate moderation, submitting that such an order is borne out of his experience of M's deceit, and a consequent lack of trust.

172. As Ms Venters correctly submits, there must be substantial evidence or reasonable belief that the child is at risk of harm, or their welfare in jeopardy.

173. RO was clear in evidence that he did not think that there was a risk in this case that M would abscond from the jurisdiction. He explained to me that he understood why F might worry, but that such a worry was not grounded in the evidence I have before me.

174. It must be said that this is a compelling analysis. M is plainly rooted in UK, as is her life and her children. Every aspect of Elisabeth's existence is planted in UK. The most important people to her are in her near location. Whilst I do not diminish F's concerns about M's trustworthiness, RO's analysis that such an order would be since "things do happen" – and nothing more – gives me significant cause to caution. There is in my view a poverty of realistic or robust evidence about flight risk in this case.

Should Elisabeth be baptised?

175. F would like Elisabeth to be baptised into the Roman Catholic faith. His statement outlines that the Roman Catholic faith is an “integral” part of his and his family’s life. This is based on a hope that it “may be beneficial to her.” F is a baptised Roman Catholic, whose faith is a “fundamental part of helping to provide [him] with support and comfort.” In his statement, F told me that it was a part of his ancestry and helped him feel connected to his family. He explained that he would want Elisabeth to feel included in this aspect of the paternal family’s life. If Elisabeth later took a contrary view, he would support her “decisions or choices”. Baptism would allow Elisabeth to “be introduced to and learn about this faith and its teachings in order to assist her in... [making] an informed decision about what feels right for her on her path in life.” It would allow Elisabeth to feel part of a community. It is also the first step on the sacramental journey – Confirmation and First Holy Communion occur later in childhood when Elisabeth can “better reason such decisions.”

176. In her statement, M explains that she considers that baptism is motivated by a wish for Elisabeth to attend a school near to F’s home in the West Midlands. She explains that she was “surprised it has taken him this long into the proceedings for him to raise it as such an important issue.” M explained her own rich experiences to me in her statement, including experiencing many of the world’s holy places, and the oldest and most established religions. She told me that as a yoga instructor, “I have the privilege of embracing and welcoming people of all cultures and beliefs into my practice, fostering an environment of inclusivity and respect for diverse spiritual paths.” She goes on to say that “Just like [F], I do not take part in any religious practice in my daily life, despite being indoctrinated into a religion I didn’t choose for myself.” M observes “Elisabeth’s lack of interest in church or prayer, despite her intellect.” She again describes baptism as “indoctrination” which “stifles critical inquiry.” She told me that she thinks, but cannot be sure, that F had a family fall out about church attendance some years ago. She finishes:

“In conclusion, I firmly believe that subjecting Elisabeth to baptism at this stage would be a disservice to her autonomy, critical thinking abilities, her overall well-being, as well as her connection to her younger sister. I feel it is essential that she be allowed to explore and discover her own spiritual path in due time, free from coercion and premature imposition of other people’s religious beliefs.”

177. RO left the decision for me and provided no steer on the baptismal issue.

178. I accept that baptism provides Elisabeth with an enduring link to her paternal family. Elisabeth's links to her paternal family have come under stress from M and WJ since her birth. I have already made findings that they sacrificed Elisabeth's identity on the altar of their relationship. Baptism would in my view provide Elisabeth with an enduring sense of being part of a "community" – not only of family but a wider faith.
179. It was suggested by M that F is not a practicing Roman Catholic. M explained that when F and M lived together, F did not show an interest in religion. There are several issues with this contention:
- a. First, M's own case is inconsistent – M suggests that it was an "affair" and that they did not live together. I am unsure on her own evidence how she therefore says she had a comprehensive understanding of F's movements and belief systems during a brief dalliance.
  - b. Second, during this time, M admitted lying to F and being out of the house to continue an affair with WJ. On M's own account, she simply was not there long enough to form a view as to F's religious proclivities.
  - c. Third, she acknowledges that religion was meaningful enough to F to cause the fracture of a sibling bond.
  - d. Fourth, F throughout this case has given me an accurate touchstone of evidence. Where there is a conflict, I prefer F's evidence.
180. I find M's evidence internally inconsistent. M's own claim to promote "inclusivity and respect for diverse spiritual paths" is entirely at odds with her own statement. Although M claims that she respects F's religion, M rails against a dogmatic and doctrinal belief system. She laments her own "indoctrination" into a religion not of her choosing. M has shown herself through this case to relegate Elisabeth's welfare where her own wants or beliefs clash, and this is no exception. In my view, M's evidence applies her own prejudice about the Roman Catholic faith to a seminal part of Elisabeth's upbringing. She does so against a backdrop of concern from the court that she has actively attempted to eradicate F from Elisabeth's life in several other ways.
181. Additionally, M is a living example of somebody who is introduced to a religion, and then can choose a "spiritual path in due time, free from coercion and premature imposition of other people's religious beliefs." Baptism is the first step on such a spiritual journey; F is not asking me to shackle Elisabeth. I found F to be wholly sincere in his respect for other paths, should Elisabeth choose to follow such a path in the future.

182. Accordingly, I go to the welfare checklist; the tool that helps me analyse the options available.
183. **Wishes and feelings:** Elisabeth is very young, and her wishes and feelings are superficial. Although LA purported to give an account of Elisabeth's wishes and feelings in its Section 37 investigation, as RO told me, he does not consider it appropriate to interview children of Elisabeth's age about her wishes. RO was critical of the quality of the LA investigation in this case.
184. As RO noted in his report:
- “Elisabeth is four years old and will have little understanding of these proceedings. It is only possible to obtain limited wishes and feelings from her and those would not be at a level which would assist the court.”
185. Elisabeth is a happy little girl. She loves her mummy and her “Daddy [Peter]”. I am sure she loves WJ too. She loves living with her sister, and her home. She loves F and enjoys herself when she is with him.
186. Elisabeth will have the same wishes as any child of her age: She would wish for stability. She would wish for security. She would wish for an upbringing free from harm, and an enduring quality of care.
187. **Elisabeth's physical, emotional and educational needs:** Both parents can meet Elisabeth's physical needs. Although there was a concern about inflicted injury, I did not consider it proportionate to delve into this issue further. Both RO and the local authority are satisfied that Elisabeth's physical needs are being met by both M and WJ, and F.
188. Elisabeth's educational needs are the same as any child of her age. Very shortly, she will require schooling. This is essential for every aspect of her educational, cultural and social development. Elisabeth has a place at a primary school in Staffordshire. In February 2024, the school was graded as ‘Outstanding’ by OFSTED. Nobody seeks to argue that this school is not an excellent school. The argument in this case was more to do with geography, however this has now evaporated.
189. Elisabeth's educational needs require an upbringing free from adult conflict. She needs the adults in her life to respect each other and promote the other's role. RO noted that Elisabeth's needs are not being fully met because of the “conflict between the adults” which RO notes will have a detrimental impact on M as she gets older.

190. Elisabeth's emotional needs depend on her continuing relationships with the important people in her life: M, F, Anna and WJ.
191. I have made findings about M and WJ's behaviour in the aftermath of Elisabeth's birth, and since. I have explained why there is cause to doubt M's ability (with or without WJ) to promote F's role in Elisabeth's life to Elisabeth. Elisabeth is too young to critically engage with the context of this case, or make sense of her life story to date. I have also expressed that pulling against that is some encouragement from M and WJ's recent behaviour, in spite of my findings, in promoting F's role in Elisabeth's life. I considered very carefully in this case whether I could trust M at all to do this.
192. The problem is beautifully set out by RO in his report: "There is communication between the adults but no relationship. I believe that this is due to historical factors which have led to anger and mistrust, which is still very evident."
193. The more muscular option of a full transfer of residence is in some ways attractive, with the disruption in ties being a relatively short-term issue. However, on a very fine balance, there is enough in the recent past to show that M and WJ are at least compliant with Orders, and the option of equal shared care is open to me, allowing me to preserve the ties that Elisabeth has built, and her relationship with Anna. If I ordered only limited contact with F and Elisabeth, as M invites me to, I do not consider that this would be sufficient to counterweight the potential for hostility with positive experiences of F's parenting. In my view, Elisabeth needs generous, regular, and consistent time with F. Only this arrangement is sufficient to militate against the significant risk that M and WJ – given their behaviour and entrenched attitudes – may seek to undermine Elisabeth's time with her father. When the periods of contact are shorter, that is a much easier task for M and WJ. Alternate weekends and shared holidays are simply insufficient to meet these aims. This sort of undermining behaviour is a source of significant emotional harm for Elisabeth.
194. In my view, it is also incumbent upon this court to ensure that the ties between Elisabeth, F and F's family are as enduring as possible. This again is to militate against the risk that I am satisfied exists from M and F to Elisabeth's emotional wellbeing. To assist Elisabeth in embedding in her paternal family, and in meeting her strong welfare need for a sense of enduring belonging with her paternal family, in my view it is important that Elisabeth is baptised in the Roman Catholic faith. This creates a lifelong bond between Elisabeth, her paternal family, and the community of which Elisabeth will become a part. I reject M's evidence – I consider that M has lost objectivity with her own negative experiences. In fact, baptism is just the first step on a faith journey and Elisabeth is free to make her



own decisions – in time – about whether she remains a member of the Roman Catholic church and takes the sacraments.

195. I accept the analysis of RO that Elisabeth's emotional needs require a relationship with Anna. I accept that the ties should be preserved as much as possible. However, I also must give the half-sibling relationship an appropriate weight when looked at against F. Anna forms an important part of Elisabeth's conception of her family, and her maternal identity. F constitutes Elisabeth's sole gateway to her paternal family, and a side of her family and identity that she will benefit from, and must share in. Although I am satisfied that a separation from Anna would be harmful, RO did not consider that a shared care arrangement within the same proximity would be a separation. The girls would attend the same school and spend regular time with each other. They would be near each other as they grow up. I do not consider that a shared care arrangement within the local area is in any meaningful sense a 'separation'. Nor do I consider that an Order which alternates Christmas morning with the siblings would in some way run contrary to Elisabeth's needs or interests. RO was clear that this was in many respects the reality of blended families, and the closeness is fostered by the siblings being able to spend Christmas with each other at some point. There are many things that blended families do to meet this challenge – shared activities etc in the build up to Christmas, etc.
196. I have very few concerns about F's ability to promote M, WJ or Anna's role in Elisabeth's life. In spite of the history, he has been admirably and impressively positive about this. This is in a sharp contrast to WJ, who came across as embittered and hostile to F. If there is a difficulty in promoting a relationship between Elisabeth and Anna whilst Elisabeth lives with her father, I have no difficulty in considering that that difficulty will flow from WJ's resistance.
197. Elisabeth's emotional wellbeing requires that I ensure M and WJ's compliance with any Order I make. The consequences for Elisabeth of a failure by M and WJ to promote F's role in her life are serious. Any Order I make should therefore ensure compliance, as much as possible, to meet Elisabeth's needs.
198. **The likely effect on Elisabeth of any change in her circumstances:** Elisabeth is resilient. She has experienced frequent changes to her contact arrangements with F in the last few years. She has taken to each with skill. She can adapt to them because she loves the time she spends with F.
199. RO noted that Elisabeth was resilient. RO raised no concerns about Elisabeth's ability to adapt to change. There is nothing in the evidence to suggest that she cannot do that, if she is appropriately supported. If she struggles with this, I am clear that this is a failure of parenting as opposed to an inherent risk that Elisabeth is in some way unable to cope with a change of circumstances.

200. A shared care arrangement mitigates such changes because it preserves, some of the time, the *status quo* for Elisabeth. This unquestionably makes the process of adapting to other changes easier.
201. **Elisabeth's age, sex and background:** There is nothing particular prescient here. Elisabeth is young and requires the adults in her life to protect her best interests.
202. Part of Elisabeth's background is the faith of her paternal family. Just as she will benefit from M's links to Zimbabwe, and the wonderful cultural benefits that will bring, she should benefit from links with the faith shared by F and his family. These shared interests and values will help to foster life-long bonds.
203. **Any harm Elisabeth is at risk of suffering:** I have set out my conclusions extensively about the harm which I consider Elisabeth to have suffered and be at continuing risk of suffering. This risk of emotional harm flows in my assessment from M and WJ. Any order I make should guard as much as possible against this risk.
204. **How capable Elisabeth's parents, and any other person in relation to whom the court considers the question to be relevant, are of meeting her needs:** M, WJ and F are the important people in Elisabeth's life. I have no concerns about the ability of F to meet Elisabeth's needs. I have some concern about the ability of M and WJ to meet Elisabeth's emotional needs. There is a need to ensure compliance with any order to ensure that M and WJ do not, once more, prioritise their own relationship above Elisabeth's emotional wellbeing.
205. **The range of powers available to the Court:** There are substantial disputes as to Elisabeth's welfare. I must make Orders to determine and thereafter regulate aspects of Elisabeth's upbringing that her parents cannot agree on. RO told me I need to be prescriptive as possible to avoid confusion.
206. I have considered whether as part of my Order I should have a suspended transfer of residence order that Elisabeth lives with her father - that the shared care order will continue unless and until it is breached. I must take the most proportionate step when I am making orders that interfere with the right to family life of Elisabeth and the parents. Given the compliance of M with the court orders, I have decided not to make such an order. However I will reserve any future applications to myself, and I make clear to M and to WJ that I expect full compliance with the Orders I have made.

## My decision

207. For the reasons I have explained, I agree with the recommendations of RO as they were set out in evidence. Where I have departed, I have explained my reasons above.
208. Only a shared division of time between the parents can meet Elisabeth's needs.  
**I therefore order that Elisabeth will live with both of her parents.**
209. **The live with order will follow a week on-week off pattern, and in September will apply to term times only.** Sunday afternoons will be the handover times so Elisabeth is settled for the week the night before she goes back to school.
210. This is on the basis that F will move to Staffordshire within the next few weeks.
211. From September 2024, and by agreement, Elisabeth's school holidays will be split between her parents as follows:
- a. For the long summer holiday, the divide should allow Elisabeth two weeks with each parent so that she can go away on holiday with both families. The first two weeks will be spent with F, the second two weeks with M, and the final two weeks divided.
  - b. For holidays of one week, the week will be divided with Wednesday lunchtimes as the half-way point.
  - c. For holidays of two weeks, each parent will have a week each with Elisabeth. The pattern will change depending on the shared care pattern, so that Elisabeth avoids two consecutive weeks with one parent.
  - d. As Easter is a holy time in the Roman Catholic calendar, Elisabeth will spend every Good Friday – Easter Sunday with her father. Elisabeth should share this with F and her paternal family. This should be built into the two-week pattern.
212. Christmas will be alternated. From 2024, Christmas Eve noon to Christmas Day noon will be spent with F; Christmas Day noon to Boxing Day noon will be spent with M. From 2025, the reverse will apply, and so on.
213. I refuse to make a prohibited steps order. I have no concern about a flight risk in this case to non-Hague Convention 1980 countries.

214. I make a specific issue order that Elisabeth will attend a primary school in Staffordshire.
215. I make a specific issue order that Elisabeth is to be baptised into the Roman Catholic faith. Although M does not agree with this, I hope that she, WJ and her family will attend, and celebrate this wonderful and joyous moment in her life. If the parents cannot agree the arrangements:
- a. Where the appointment of “God Parents” is necessary – if the parents cannot agree – I will direct that each parent may nominate two God Parents each.
  - b. The baptism is to take place within the next 16 weeks.
  - c. The baptism is to take place at the Roman Catholic parish into which F will move, near to M’s home.
216. I will reserve any future applications in respect of Elisabeth to me.
217. I will deal with ancillary directions or applications at the hearing in May. That is my judgment.

### **POSTSCRIPT**

218. On 3 May 2024, I formally handed down this judgment. Final orders were made, with some additional indirect contact being agreed by the parents. Neither parent sought to challenge my findings or Orders.
219. On 20 May 2024, I dealt with applications by both parents for costs against each other. M sought wasted costs against F in respect of an ineffective hearing on 21 July 2022. I refused this application.
220. F sought costs against M. In relation to M’s litigation conduct in respect of these issues, it has been reprehensible to the most serious degree. Mr Bott in his position statement for the costs hearing on M’s behalf accepted that this application will be dealt with “through the lens of those findings.” I considered that M should pay a portion of F’s costs as in respect of paternity, the application and following corrective actions were only necessary because of M and WJ’s fraud, designed to mislead F into thinking he was not Elisabeth’s father.
221. I assessed costs summarily. I ordered M to pay a contribution towards F’s costs summarily assessed in the sum of £5,370 inclusive of VAT. I did not accede to a request to join WJ to the application on the grounds that it was not proportionate to do so.

**Deputy District Judge Harrison**  
**Stafford Family Court**  
**20 May 2024**