



Neutral Citation Number: [2024] EWHC 1336 (Fam)

Case No: ZC23F05003/8

**IN THE HIGH COURT OF JUSTICE**  
**FAMILY DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 01/05/2024

**Before :**

**MRS JUSTICE LIEVEN**

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**Between :**

**LA**

**Applicant**

**and**

**M**

**First Respondent**

**and**

**F**

**Second Respondent**

**and**

**X**

**Third Respondent**

**And**

**Y and Z**

**(Through their Children's Guardian)**

**Fourth and Fifth Respondents**

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**Ms Catherine Jenkins** (instructed by the LA) for the **Applicant**  
**Ms Lorraine Cavanagh KC and Ms Julia Gasparro** (instructed by **GT Stewart Solicitors**)  
for the **First Respondent**  
**Ms Marisa Allman and Mr Ben Mansfield** (instructed by **Dawson Cornwell**) for the **Second**  
**Respondent**  
**Mr Tom Wilson** (instructed by **Goodman Ray**) for the **Third Respondent**  
**Ms Louise MacLynn KC and Ms Ravi Mahey** (instructed by **TV Edwards Solicitors**) for the  
**Fourth and Fifth Respondents**

Hearing date: **23 April 2024**

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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 1 May 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE LIEVEN

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

**Mrs Justice Lieven DBE :**

1. This case concerns a long-running dispute over Forced Marriage Protection Orders (“FMPO”), involving four children C (18), X (17), Y (16), and Z (14). They are the persons to be protected in the application. The respondents are M (“the Mother”), F (“the Father”), and X (17 year old). In the original application the children’s adult sister (A) and brother (N) were respondents but they were discharged in February 2024. C was discharged from proceedings on 14 February 2023 as was the FMPO in respect of her.
2. The Local Authority (“LA”) were represented by Catherine Jenkins, the Mother was represented by Lorraine Cavanagh KC and Julia Gasparro, the Father was represented by Marisa Allman and Ben Mansfield, X was represented by Tom Wilson and the Guardian was represented by Louise MacLynn KC and Ravi Mahey.
3. The parents were both born in Afghanistan. They have two older children, A (born September 2003) and N (born August 2004). They and C and X were born in Pakistan. The family travelled to the UK in 2007 and resided in the UK thereafter. All the family members are UK citizens with Afghan identity cards. The children all went to school in London.
4. A was married in 2021, at the age of either 16 or 17.
5. In February 2022 C disclosed issues around self-harm and physical chastisement by her parents to staff at her school. On 9 June 2022 she told the Safeguarding Lead at school that her parents had booked a ticket to take her to Afghanistan to marry a man who was known to her parents. She said she had no choice but to marry him. The following day she told the social worker and the police the same thing, and that her parents had planned to wait until she had finished school but had brought forward the plans because she was in trouble at school. She implied to the social worker that once her parents knew she had spoken to the police and social services she would experience verbal and physical abuse. She referred to the fact that A had been married before her 17th birthday and had not initially wanted to be married. In the view of the social worker, C was afraid of her parents.
6. On 10 June 2022 the LA applied for a FMPO without notice. On 13 June 2022 C told the school that A and her husband had in some way intervened, and the parents had decided not to go through with the wedding. On 14 June 2022 the FMPO was made by DDJ Morris, together with Passport Orders.
7. There was then a period when there was discussions between social workers and the parents, and the parents did work with the Halo Hope Charity. They reported that the parents had engaged well. C said that she had made things up to get out of trouble, and she was never at risk of forced marriage. Interestingly, on 16 August 2022 the parents filed a statement saying that Afghanistan was not safe with the reign of the Taliban, and *“there was no way we would have made plans to take the entire family to Afghanistan”*.
8. On 9 March 2023 the LA sought no further orders and HHJ Talbott discharged the FMPO with the parents giving no undertakings. I note that the Childrens Guardian,

who has been represented throughout by Ms Mahey, sought undertakings from the parents but these were not required by the Court.

9. On 18 July 2023 (as subsequently recounted by the Father) the family travelled to Saudi Arabia on pilgrimage. He did not inform the school of this plan. He bought one way tickets because they were cheaper. From this point onwards the source of information becomes more complex. There is some information subsequently given by the parents in statements. There were subsequently some parts of the evidence and the hearings which were CLOSED (in the sense that material was not disclosed to the parents or the older siblings' representatives), and this judgment only refers to matters which were in OPEN by the end of the proceedings. It should be made clear for the avoidance of doubt, none of the material involved national security and all was shared with the LA and the Guardian. Therefore the use of the nomenclature of OPEN and CLOSED is colloquial rather than statutory.
10. The Father says that when in Saudi the children insisted that they wished to go to Afghanistan on holiday and the Mother wanted to visit her parents there. The family travelled from Saudi to Afghanistan on 25 July 2023, with return tickets to London for 25 August 2023.
11. The Father, in his statement of 23 September 2023, says that when the Mother got to Afghanistan her health deteriorated, including an adverse skin reaction, mental health deterioration, and issues with her kidneys and her liver. He says that she refused to return to the UK because she wanted to stay in Afghanistan for treatment, and the children refused to return because they wished to stay with the Mother. He cancelled the flights for the children but returned to the UK himself.
12. On 5 and 6 September 2023 the children failed to attend at school for the first day of term. The LA became involved and a meeting at school was held on 12 September. A, who was in London, told the school that the Mother was remaining in Afghanistan because she had not been able to get treatment in London. The Father produced a medical report from Afghanistan saying that the Mother suffered from hypertension, hyperlipaemia and coronary heart disease.
13. On 19 September 2023 there was a without notice hearing before me where I made the children wards of court, and made FMPOs, return orders, Passport Orders and various orders for disclosure. Both A and N were respondents to these orders.
14. On 20 September 2023 C texted the Social Worker saying *"I am not leaving her here alone there is no problem or forced marriage going on so I don't understand why there is a court order. We aren't able to come either as my mum is ill."*
15. On 21 September 2023 there was an on notice hearing when the Father told the court he wanted the children to return, but could not afford the tickets. The LA agreed to pay for the tickets.
16. On the same day the Mother's GP, in response to an order from the Court, wrote:  
  
*"[O]ther than a nasal steroid spray, last issued in May 2023, she does not have any active medication for any significant medical decisions", and "there are no active or significant previous consultations regarding*

*liver, kidney function, hypertension coronary artery disease. Nor active or significant previous medical treatment for these conditions.”*

*(mother’s medical notes subsequently disclosed do not confirm either that treatment has been sought for the issues said to be suffered by the mother).”*

17. On 23 September 2023 the Mother produced a letter from an Afghan medical centre stating:

*“[The Mother] came to centre on 20.09.23 complaining of severe headache, nausea and chest discomfort. She diagnosed severe hypertension + anxiety depression and IHD. After controlling blood pressure, she is under observation and treatment regularly. Not fit to fly right now.”*
18. Flights were booked for 22 September 2023, but the children did not return, either then or on a subsequent flight. It was extremely difficult, if not impossible, to be confident as to what the true wishes of the children were. They, including C, told the Guardian that they wished to remain in Afghanistan, but it was not possible to know whether that was their true view. There is no Consulate in Afghanistan at which they could speak freely.
19. On 25 September 2023 the LA issued an application for committal of the respondents for breach of the order of 21 September 2023. I ruled that should be heard by a different judge, as I had read CLOSED material in the proceedings, which the Respondents had not seen.
20. There were then further attempts to return the children in October 2023, which were unsuccessful.
21. The position changed in early 2024 because C indicated in OPEN proceedings that she now wished to return to the UK. At a hearing on 12 January 2024 she proposed that she would return within a couple of weeks and wanted assurance that the authorities would not remove her passport. The parents agreed and the LA withdrew its committal application as against the Mother at the 12 January 2024 hearing and adjourned the committal proceedings against the Father and the two eldest children of the family. Subsequent events suggest that C being allowed to say she wished to return to the UK may have been because she was by this stage pregnant.
22. Proceedings were stayed to allow practical arrangements for C’s return to be put in place. A problem arose because the family had proposed that C’s uncle, would accompany her (as is required in Afghan law). However, when the uncle was informed that he would only be able to travel to Turkey, and would not have a visa to enter the UK, he declined to assist. Eventually, after a great deal of negotiation, N agreed to travel to Afghanistan to collect C. He initially refused on account of his studies in the UK, but the Court offered to write to his college asking for leave of absence, at which point he agreed.
23. There were a number of hearings in the week of 1 February 2024. This culminated in a hearing on 7 February 2024 at which only I, Ms Mahey and Ms MacLynn attended

with C on a remote link in Afghanistan. C agreed to return to the UK on 9 February but to be allowed to go back to Afghanistan if she so wished. She also made it a condition of her return that the Father's passport be returned if she returned, and I so ordered. The main issue in this judgment is whether I should reverse that order. The LA agreed to discharge all orders and to apply to withdraw committal proceedings if she returned.

24. C returned to the UK on 9 February, and on the following day spoke alone to her solicitor and Ms Mahey.
25. C subsequently met with the children's social worker, Natalie Nunn. She informed Ms Nunn and Ms Mahey that she is married, having undergone a Nikah in Afghanistan. She reported that this took place before the current proceedings began (before 19 September 2023). She reported that her parents had tried to pull out of the Nikah but were unable to. She also told the social worker that she liked her husband and is content being married. She indicated that she was going to obtain antenatal care in this country and wanted to return to Afghanistan in a few more days as she wished to have antenatal care and hoped to catch up with her friends here. C maintained that her mother remains unwell in Afghanistan. She subsequently confirmed to the social worker on 13 February 2024 that she had informed her parents that she had told the social worker this information. Therefore, the gist of the CLOSED material is now open evidence – that C is married and is pregnant.
26. Notably, at the hearing on 14 February 2024, which was held in person in the Royal Courts of Justice with all parties present (the Mother remotely), C denied she was married and could not confirm whether a Nikah had taken place. She was, almost literally, rendered dumb in the Court in the presence of her Father and older siblings.
27. C then returned to Afghanistan on 19 February 2024. This was her choice, and to be allowed to do so was a condition of her agreeing to come back to the UK.
28. At the hearing on 14 February 2024 I declined to order the immediate return of the Father's passport on the basis that there was a material risk to the younger children. I instead ordered that the parents set out detailed statements to explain their position. The order of 14 February 2024 stated at para 30:

*“30. The 1st and 2nd respondents M and F shall each file and serve detailed statements by 4:00pm on 23 February 2024 which contain a statement of truth and which address the following issues.*

- (i) All plans made and actions taken since June 2022 to date in respect of any marriage of C or any of the children/persons to be protected.*
- (ii) Whether there is a planned marriage for C or any of the PTBP.*
- (iii) All relevant dates in relation to any planned marriage for C or any of the PTBP.*
- (iv) Whether any promises of marriage have been made to C's partner / the father of her child or his family, and if so the details.*

- (v) *Whether any promises of marriage have been made in respect of any other of the children / persons to be protected, and if so the details.*
  - (vi) *The full details of the father of C's child, including where he lives and where he met C.*
  - (vii) *Their views on C's safety in Afghanistan given she alleges she is not married and is pregnant out of wedlock, whether there is a risk of prosecution under Taliban law governance. What measures the parents have in place for her ongoing protection if she continues to remain unmarried and pregnant in Afghanistan.*
  - (viii) *Whether any ceremonies or purported marriage ceremonies, religious or otherwise, including any Nikah have taken place in respect of C's marriage or any other of the children / persons to be protected, and whether any are planned for the future. The parents are to set out the dates of any ceremonies which have taken place or are planned.*
  - (ix) *Whether any plans have been made for any celebration of C's marriage including any date.*
  - (x) *Their plan for the return of the children / persons to be protected to England with timescales.*
  - (xi) *What education the children are receiving now and their plan for the education of each of the children / persons to be protected in the future.*
  - (xii) *Whether there are any orders that they would either not oppose or accept the court making."*
29. On 21 February 2024 the Father filed a statement in which he denied that C had a Nikah or any other marriage ceremony. No suitor had been arranged for C in Afghanistan. The Father maintained his account that in 2022, C made up her account of being forced to marry as she was self-harming and vaping. The Father confirmed that the father of C's baby. He was unable to give an account of how C became pregnant in Afghanistan, although he said that C now wished to marry the father of her child. He said that a few months ago C asked to get married, and the parents said no. He said this was a general request and "she did not mention a specific person...". A marriage is now being planned for C in accordance with her wishes. The Father denied he knew the man before C became pregnant. He said he only knew about the pregnancy when C returned to England.
30. The Mother filed a statement dated 29 February 2024 in which she also suggested that no action or plans or promises of marriage had been made since 2022 in respect of any marriage for C or any children of the family. The Mother said that C fell in love with a neighbour's son in Afghanistan. The Mother was against the relationship. C was persistent that she wanted to marry him, but her mother asked her to wait until her father came to Afghanistan. The Mother said the Father did not know about the

relationship or the pregnancy. The Mother said she was not aware they were having a sexual relationship. The parents have reluctantly agreed for C to marry this man. She said that the family and wider community are aware of the pregnancy. The Mother says her health prevents her returning to England and the children do not want to leave her.

31. To put it mildly, the fact that the parents accept C apparently having become pregnant outside marriage whilst living in the family home in Afghanistan, is surprising and hard to believe. The fact that the Father denies knowing the boyfriend, even though he lives next door, is also difficult to accept.

#### The position of the parties

32. The principal issue that remains between the parties is whether the Court should continue the Passport Order in respect of the Father, thus preventing him from travelling to Afghanistan. The parties, save for X, have agreed FMPOs in respect of the three younger children. The parents do this on a no admissions basis. X who is now 17.5 years old submits through her counsel that she is at not risk of forced marriage, wishes to remain in Afghanistan with her mother, and there should be no FMPO in respect of her.
33. The LA submit that there should be an FMPO in respect of all the younger children. They further submit that the Passport Order should remain in respect of the Father until Z reaches the age of 18, i.e. 3.5 years. The LA, supported by the Guardian, say that both parents have been palpably dishonest in this case, and have shown no respect for the Court or Court orders. Ms Jenkins submits that there is evidence that suggests that the Father's physical presence in Afghanistan is an important component in marriage arrangements. Their evidence simply cannot be trusted. When C returned to the UK in February 2024 she said that there had been a Nikah in the summer of 2023, which appears to coincide with the time the Father was in Afghanistan. If the Father is allowed to travel to Afghanistan then there is absolutely no control over his actions in respect of forced marriage, and indeed it will help him to facilitate such a marriage.
34. The Guardian supports the LA and Ms MacLynn submits that the risk of the children being forced into marriage would be materially higher if the Father is allowed to travel. The Guardian spoke to the children on 15 March 2024 and they were all adamant that there was no risk of forced marriage and that they wished to stay in Afghanistan. Interestingly, X and Z said that C had had the Nikah a week before, which strongly suggests to me that they were being influenced in what to say by the parents.
35. Ms Cavanagh on behalf of the Mother, agrees to the FMPOs. She submits that the Father's passport should be returned to him and supports Ms Allman's submissions.
36. Ms Allman on behalf of the Father strongly submits that the Passport Order should be discharged. She points out that in the orders dated 6 and 7 February 2024 the Court indicated that if C returned, the Father's passport would be returned to him. At the hearing on 14 February the Court ordered that the passport would not be returned until the LA and Guardian had had further opportunity to consider the evidence, and the parents had filed full statements.



37. Although she accepts that in principle it is open to the Court to change its mind, this should only happen if there is a clear change of circumstances, see *Tibbles v SIG* [2012] EWCA Civ 518. I note that the power to change a case management decision, particularly in a Family case, was put a little more widely in *Re LB (Reversal of judgment)* [2013] UKSC 8 at [37]:

*“Both the CPR and the Family Procedure Rules make it clear that the court's wide case management powers include the power to vary or revoke their previous case management orders: see CPR r 3.1(7) and rule 4.1(6) of the Family Procedure Rules 2010 (SI 2010/2955). This may be done either on application or of the court's own motion: CPR r 3.3(1), rule 4.3(1) . It was the absence of any power in the judge to vary his own (or anyone else's) orders which led to the decisions in In re St Nazaire 12 Ch D 88 and In re Suffield and Watts, Ex p Brown 20 QBD 693 . Where there is a power to vary or revoke, there is no magic in the sealing of the order being varied or revoked. The question becomes whether or not it is proper to vary the order.”*

38. Ms Allman also referred to *N v J* [2017] EWHC 2752 at [77]:

*“Within the context of applications to set aside a return order made under the inherent jurisdiction of the High Court where no error of the court is alleged, whilst considerations of welfare will mean the discretion is a relatively wide one, the need to avoid litigants having two bites at the cherry, the need to avoid undermining the concept of appeal and the overriding objective means that the exercise of discretion on such an application will be constrained to a certain extent. In particular, in addition to the caution expressed in the authorities dealing with CPR r 3.1(7) , the need to deal with the case justly pursuant to the overriding objective in FPR r 1.1 requires that a party is not able to circumvent the appellate process.”*

39. She submits that it is now clear that the LA, and the Court, must have known on 6 February about C's pregnancy, although the Father says that he did not know about it. Therefore the fact of the pregnancy and the implications that flow from it, is not a material change that would justify varying or revoking the order to return the passport. The risks which the LA now rely upon were risks known at the time of the order.
40. In respect of the making of a Passport Orders she referred to *Re K (Forced Marriage: Passport Orders (Rev 2))* [2020] EWCA Civ 190 at [67]:

*“Whilst the breadth and flexibility of the court's jurisdiction applies to the making of a passport order just as it may apply to any other element within a FMPO, I agree with Ms Fottrell's submission that the authorities establish that an open-ended passport order or travel ban should only be imposed in the most exceptional of cases and where the court can look sufficiently far into the future to be satisfied that highly restrictive orders of that nature will be required indefinitely. In all other cases, the court should impose a time limit when making such orders. The time limit will vary from case-to-case and, like all other elements,*

*be a bespoke provision imposing a restriction only in so far as that is justified on the facts as found. Unless the court can see with clarity that there will be no need for any continuing order after a particular date, for example when it is clear that the circumstances will change so that the risk is removed, the appropriate course will be for the court to list the matter for further review a short time before the passport and/or travel ban will otherwise expire.”*

41. Ms Allman also referred to *Re M (Children: Passport Orders)* [2017] EWCA Civ 69 and the care that is required as set out in *Re B (Passport Orders)* [2014] EWCA Civ 843:

*“32. But Wilson J's words surely suggest, what a reading of his judgment as a whole indicates, that his observation was not directed to the Strasbourg distinction between a deprivation of liberty and an interference with liberty of movement, but rather to a different and for present purposes much more significant point; namely, that either form of coercive sanction is equally outside the proper ambit of the court's powers as a matter of domestic law. For immediately after the words I have just quoted, Wilson J cited these words of Hobhouse LJ in Re B , page 488:*

*“The use of ancillary powers which have the practical effect of restricting the liberty, or freedom of movement of an individual is recognised in the granting of injunctions, now under s 37 of the Supreme Court Act 1981 ... There is an obvious difference in kind between an injunction and the arrest or physical detention of an individual, but such orders are analogous and illustrate the proper use of an ancillary power although it prima facie infringes the personal rights of the individual involved.*

*Where a power of arrest or detention has been recognised other than as part of a punitive jurisdiction, it is ancillary to the exercise of another power of the court and is legitimate because it is necessary to the implementation of the order of the court.”*

*33. In my judgment it is clear that, for this purpose, neither Hobhouse LJ nor Wilson J saw any material difference between a coercive order where the coercive method used is incarceration and a coercive order where the coercive method used is a passport order. Each is equally outside the proper ambit of the court's powers. Mr Williams referred in this context to sippenhaft . The point was well made: cf Re MCA; HM Customs and Excise Commissioners and Long v A and A; A v A (Long Intervening) [2002] EWHC 611 (Admin/Fam), [2002] 2 FLR 274 , para 190.”*

42. Given that there are FMPOs being made in this case, it seems clear that there is power to make a Passport Order. The order sought is not unlimited, but runs for 3.5 years.

## Conclusions

43. There are only two outstanding issues in this case; whether to include X in the FMPO and whether to discharge the Passport Order against the Father.
44. I would like to start by acknowledging and praising the enormous efforts that the LA and the Guardian's team have made to protect the children in this case. Both the social workers and Ms Mahey have worked tirelessly to protect the children from the risk of forced marriage. The case is perhaps an illustration that even with all the effort and goodwill, there are limits to the Court's and the LA's ability to protect in these very fraught cases.
45. Taking the case overall, I have not the slightest doubt that the parents have not been honest with the Court. Some parts of their accounts are simply not credible, whereas the sequence of events accords entirely with the accounts given by C when she feels safe to speak away from the influence and control of her family. I make clear that this conclusion is based on the OPEN evidence only.
46. C told the school in July 2022 that the family had a plan to take her to Afghanistan to force her into marriage because of her behaviour in London. The LA intervened and the family remained in the UK, appearing to engage with the LA and the Halo Project. As they doubtless wished, the first FMPO and Passport Orders were discharged in March 2023. The family then travelled to Saudi Arabia on a one way ticket, without informing the children's schools of the holiday. They then allegedly spontaneously decided to go on holiday to Afghanistan. This is despite the fact that the parents had said that they considered Afghanistan under the Taliban to be unsafe.
47. When they got to Afghanistan the Mother became too ill to return to the UK and decided to remain in Afghanistan for medical treatment. This is despite the fact that the GP in London reported that the Mother had not attended with any serious medical complaint and had not sought hospital treatment for the early stages of heart disease or any other concern. Whatever the well publicised problems with the NHS, it seems very surprising to remain in Afghanistan, particularly through the winter, for medical treatment rather than return to London. I note that despite a court order, the parents have not filed any further evidence of the Mother's alleged health treatment in Afghanistan. I note that the Mother flew from London to Saudi, and then on to Afghanistan with no obvious problems. So the onset of her alleged inability to fly seems convenient.
48. According to C's conversations when she returned to the UK in February 2024, and was speaking away from the family, there was a Nikah in the summer of 2023 in Afghanistan. She subsequently became pregnant. This fits entirely with the threats her family made earlier to force her into marriage; the timing of her Father being in Afghanistan; and the probable reasons why the family did not return to the UK that summer. The parents deny that a marriage took place, but it seems a very odd lie for C to make up. If she was doing it to cover the pregnancy, then that would be totally obvious to her parents that she had become pregnant outside marriage. However, they seem unconcerned about this strange situation. It is a lie that would also place her at very great jeopardy in Afghanistan.
49. The Mother has not made clear when she became aware that C was pregnant. She was living in the same house as C in Afghanistan, and yet never informed the Court about the pregnancy. The Father says that he did not know about the pregnancy until C

returned to the UK. They say the father of the child lives next door in Afghanistan, and they did not know C was having sex with him. This story seems staggeringly unlikely given the family are living in Afghanistan under Sharia law and the Taliban government. Unmarried sex is a very serious offence under Sharia law, and punishable in Afghanistan by stoning to death. Yet these parents seem strangely unbothered by their teenage daughter becoming pregnant by a man the Father claims not even to know and returning to Afghanistan pregnant but unmarried.

50. I have not the slightest doubt that the parents' stories are untrue. Their accounts are inherently unlikely, for the reasons set out above. This is then supported by C's account, when she feels she can speak relatively freely. I note Ms Cavanagh urged caution in making findings given that the Mother had not given oral evidence, however she did not ask me to adjourn the hearings to hear oral evidence, as I indicated I was quite prepared to do.
51. I make these findings because it is important to my conclusion on the Passport Order that I find that the parents are not credible witnesses, and are quite prepared to lie to the Court to achieve the result they wish.
52. In order to continue the Passport Order, I need to consider whether it is justified and proportionate, given the fact that the removal of a passport is a significant interference in this case in the Father's Article 8 rights, and a block on his freedom of movement. For the avoidance of doubt, I do not consider that the removal of his passport interferes with his Article 5 right to liberty. I also need to consider whether there has been a material change of circumstances which would justify me varying the order on 6 February 2024, when I indicated that the passport would be returned if C returned to the UK.
53. I accept Ms Jenkins's submission that removing the passport and thus not allowing the Father to travel to Afghanistan will lessen, though not remove, the prospects of the younger children being forced into marriage. It seems likely that the Nikah for C was performed when the Father was in Afghanistan, and he had a role in setting up the marriage. Of course, arrangements can be made electronically, or via another, probably male, family member. However, the Father is a very significant figure in the family, and certainly Ms Mahey's perception in the past has been that he controls the family's decision making. It may, although this is necessarily speculative, be a significant disincentive for another Afghan family to wish for their son to marry one of the girls if the Father cannot be in attendance and cannot leave the UK. I therefore agree that removing the Father's passport will at least be an impediment to the younger children being forced into marriage.
54. If, on the other hand, I allow the Father to travel to Afghanistan then it is quite possible that none of the family will return, and the prospects of the younger children being forced into marriage will be significantly increased. It needs to be clearly borne in mind that these are British children who were raised in the UK and went to London schools. Forced marriage is a massive intrusion into their private lives with life-long consequences. It involves placing them at serious risk of rape and unwanted pregnancy. In those circumstances it is, in my view, proportionate, applying the *Bank Mellat* tests, that the removal of the Father's passport is proportionate to a legitimate aim being pursued. As Ms Jenkins submitted, it does not prevent the Father pursuing family life, because the Mother and children can return to the UK at any time, my

having found that the story of the Mother's medical problems preventing her from flying is extremely unlikely. Further, this is not an open-ended order but one limited to the date Z becomes 18, and thus lasting about 3.5 years.

55. The Father says that if he travels to Afghanistan he will be better able to persuade the Mother to allow the children to return home. For the reasons set out above, I give this argument no weight. I am confident that if the Father had genuinely wanted the family to come back to the UK at any point since September 2023 he could have persuaded them to do so.
56. In respect of the change of circumstances since 6 February 2024, the key issue is that the focus has shifted from C to her younger siblings. If the purpose of the Passport Order was to protect C, I would discharge it. Sadly, the LA and the Court were unable to stop C's marriage, and I can only hope that she is telling the truth when she says she is content in the marriage and that she freely wished to return to Afghanistan in February 2024. There is no more the Court can do. However, the same is not true for her sisters and brother where the active risk remains very high and the Passport Order has an important role. The lack of honesty in the parents' most recent witness statements provide ample justification for varying the order of 6 February 2024.
57. Finally, I have concluded that the FMPO should continue in respect of X until her 18th birthday. From my interactions with C, I conclude that I can put very little weight on what the children of the family say being their own independent and unpressured views. Although I am confident that X's legal representatives have tried to ensure that she is speaking freely, in circumstances where she is in Afghanistan and there is no method of independent verification, I cannot be confident on this. Marriage in the UK under the age of 18 is now unlawful and I consider the interference in her rights by imposing an FMPO until her 18th birthday, is slight. On the other hand, this may give her some important protection for the next few months