



Neutral Citation Number: [2021] EWFC 55

Case No: CM20P03103

IN THE FAMILY COURT
SITTING AT THE ROYAL COURTS OF JUSTICE

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/06/2021

Before:

MR RICHARD HARRISON QC
Sitting as a Deputy High Court Judge

Between:

AA
- and -
BB

Applicant

Respondent

O and Y (Children) (Holidays in non-Hague Convention State)

Mr Michael Edwards (instructed by **JMW Solicitors**) for the **Applicant**
The Respondent Father appeared in Person

Hearing dates: 4, 5, 6 and 7 May 2021

Approved Judgment

Covid-19 Protocol: This judgment was handed down by the judge remotely by email. The date and time for hand-down will be deemed to be 2pm on 11 June 2021

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

MR RICHARD HARRISON QC:

1. These proceedings relate to two children: O (aged 7 $\frac{3}{4}$) and Y (aged 6).
2. The children's mother ('M') is a UK national. She and the children have been living in England since the summer of 2018. The father ('F') is a Jordanian national, presently living in Dubai. The children are dual UK and Jordanian nationals.
3. M is represented by specialist solicitors (JMW solicitors) and counsel (Mr Michael Edwards). F has acted in person.
4. The hearing has been conducted remotely via Microsoft Teams, F taking part from his home in Dubai.
5. On 18 September 2020 M made an application for a prohibited steps order to prevent F from removing the children from England and Wales and for a child arrangements order for the children to live with her. A 'lives with' order was made by consent by Peel J on 12 October 2020. F has not issued a formal application. He seeks, however, an order for the children to spend time with him, both directly and indirectly. He would like the children to be able to stay with him in Dubai, Jordan and other jurisdictions outside England and Wales. This is opposed by M who asserts that any contact he has with the children should take place in England and Wales and be supervised.
6. M alleges that there is a substantial risk that F will seek to abduct the children either by removing them from England and Wales or by retaining them if they are permitted to have contact with him overseas. F denies this and says that he has no intention of doing any such thing.
7. F alleges that M and her family have sought negatively to influence the children against him and their Jordanian heritage by instilling in them a fear of abduction and by causing them to have unhappy memories of the times they spent in Dubai and Jordan.
8. I must conduct an evaluation of the best interests of the children having regard to the welfare checklist and the principles set out in various authorities concerned with temporary removals from the jurisdiction.

Factual Background

9. The parties met in early 2009 in Jordan. M was working in a luxury hotel and living what she describes a '*5* hotel western lifestyle*'. F was working in Jordan as an engineer. M summarises the beginning of their relationship as '*the meeting of a care free extraverted English girl and a liberal Jordanian boy*'.
10. Although the early part of the relationship was punctuated by repeated separations and reconciliations, on 4 June 2011 the parties were married in England, holding an initial Nikah ceremony followed by a civil ceremony in Essex.
11. In 2011, at around the time of the marriage, the parties moved from Dubai to the United Arab Emirates, initially to Abu Dhabi, in connection with F's work. M's evidence, which I accept, is that their intention at that time was to remain in the UAE for some three years before relocating to England.

12. Towards the end of 2012 M became pregnant and the parties' first child, O, was born in July 2013.
13. Soon after the birth the parties stayed at the home of M's childhood friend ('CD') who has given a statement about what occurred during the stay. I shall address this further below.
14. At the end of 2013 the parties moved from Abu Dhabi to Dubai after F had secured an important job with the Dubai government.
15. In 2014, M became pregnant for a second time and Y was born in February 2015.
16. On M's case, the parties were very much in love in the early years of their relationship; she says that they fell out of love in 2015 '*although neither of us was willing to admit it*'.
17. M asserts that the relationship deteriorated mainly as a result of F's increasing devotion to his faith. As she puts it, '*Nothing in the early relationship prepared me for the man that [F] became; one who ... almost every working hour is focused around his faith*'. F does not accept M's account. He describes himself as coming from '*an open-minded moderate Muslim family*'. He says that when the parties met he was practising Islam through its five pillars; this continued '*unchanged*' throughout the marriage. I shall return to this issue below.
18. When the parties first moved to Dubai, they lived in a small house in an area of the city known as Al Barsha 3; they remained there for approximately 4 years. In 2017 O started attending a private school local to the area in which they were living.
19. In early 2018, the parties moved to a larger home in a less central area known as Mirdif. This was some distance away from O's school and so, in April 2018, the parties enrolled O in a more convenient international school.
20. It is common ground that O became very unhappy following the move and the change of school. F attributes her unhappiness to a particular teacher; M's case is that the reasons were more fundamental. In addition to O's difficulties at school, M describes the new home as being located in a '*strongly Islamic*' area of the city in which she and the children were stared at daily in the street and felt uncomfortable and unsafe. She says that O developed a fear of being a '*blonde Arab*' and the '*frightening attention that this drew*'.
21. M asserts that on one occasion O came home from school and told her that she wanted to die and live with Allah, who would look after her. According to M, this made her realise that '*we had come to the end of the road*'. M says that there followed a period of crisis in the relationship leading to a demand by her that she be permitted to return to England with the children; F agreed. In response to M's evidence, F produced some WhatsApp messages from M which, he says, demonstrate that the occasion upon which O told M that she wanted to die and live with Allah took place in England and was unrelated to her difficulties at school; M's response to the WhatsApp messages in her oral evidence was to assert that there were two instances of O saying more or less the same thing. In my judgment, M is mistaken in her recollection: I do not accept that there were two almost identical incidents. I do, however, accept that the problems which both M and the children encountered following the move to Mirdif were more serious than F acknowledges.

22. While the family were living in the UAE, Y suffered from ill health. She had repeated bouts of pneumonia or bronchitis before the age of three and required hospital treatment on multiple occasions; her medical notes also show that she suffered from asthma. M says that the medical care she received in Dubai was inadequate and that F compromised on the need for the family to have adequate insurance. She said in her oral evidence that F *'fought every one of the doctors'* and that, on one occasion when his parents were staying with the family, he tried to get his father to heal her with an *'evil eye'* treatment or by placing mud on her feet.
23. In her oral evidence M recounted an instance when she says that F chose to prioritise his parents over Y's health. She described a day when F *'forced'* her to drive into the desert in order to be hospitable to the paternal grandparents, despite the fact that both she and Y were ill and *'pretty much passed out'* in the car; it reached a point when Y was *'blue and floppy'*. M recounted that on another occasion Y's temperature was *'through the roof'* and she was floppy, despite which the maternal grandmother made her put the child down. M eventually pushed the grandmother out of the way and rushed Y to hospital.
24. In June 2018, M formally converted to Islam. M says that her decision to convert was the culmination of several years of *'attrition'* over which F relentlessly exhorted her to do so – what, in her words, she experienced as a form of *'passive coercive control'*. F does not accept this and makes the point that it is contrary to the principles of Islam to force another person to convert; he says that M chose to convert freely and willingly.
25. Over the summer of 2018 M and the children spent some time staying in Jordan with F's family. This is the last time they visited that jurisdiction. The parties disagree about the visits to Jordan. M's case is that they were always *'extremely difficult'* and that by the end of the visits the children would be *'gaunt, withdrawn and frightened'*. By contrast, F says that the children *'love and enjoy spending time with their grandparents and cousins in Jordan'*.
26. In July or August 2018 M and the children moved to England with F's agreement. She says that within a few days of her arrival she realised that she could never return to Dubai, although this is not something she communicated to F at the time. The parties initially agreed that M and the children would remain in England on an ongoing basis and review the position periodically. M was equivocal about her plans and the stay was repeatedly extended. F remained living in Dubai. He looked for jobs in England without success. He began the process of applying for a spousal visa, but M did not provide him with the necessary documents to complete the application.
27. Since the summer of 2018 F has made several visits to England to stay with the family (most recently in July 2019). M's evidence (which I accept) was that she was fearful on these visits that he would abduct the children, to the extent that she instigated a system of *'alerts'* whereby she would send her sister, the school and others coded messages (with the trigger words *'amber'*, *'red'* or *'blue'*, depending on the severity of the situation) if she felt the children were at risk. M's evidence about this was corroborated by a teacher at O's school, who confirmed the existence of the system to Hilary Trevelyan, the Independent Social Worker (*'ISW'*) who was jointly instructed in these proceedings.

28. In October 2019 M and the children travelled to Dubai to stay with F. This was the last time he had direct contact with them.
29. F was due to come to England in 2020 but his plans were thwarted by Covid-19.
30. In May 2020 F pressed M to let him know her plans for the future. She responded by telling him that she would not return to Dubai and that the relationship was at an end. Given M's evidence that she knew she could never return within days of her arrival in England, F feels deceived. He says that he has been '*bullied emotionally and financially*' and that M had a hidden agenda all along to keep the children away from him.
31. By 11 June 2020 M had instructed solicitors. They wrote to F on that date enclosing a draft divorce petition, the terms of which they invited him to agree. The letter asked for F's assurance that he would not seek to remove the children from England or from M's care. Through her solicitors M gave F assurances that she had '*actively taken steps to ensure that the children are fully aware of the Islamic religion and teachings*' and that '*this will not be interrupted*'. M also communicated her view that it was important that the children should have a relationship with F and remain in contact with him remotely. The letter also stated that on the occasions that F came to England M would be looking for the children to spend time with him. F did not respond to the letter.
32. In June 2020 (the precise date is unclear) F says that he approached the Family Guidance and Reformation Office ('FGRO') in Dubai '*to assist in family reconciliation*'. The FGRO appears to be an entity connected to the Dubai Courts. F did not inform M that he had taken this step.
33. On 20 August 2020, F says that the FGRO advised him that they could not handle the matter as M was outside the country and advised him to approach the court. There is a letter dated 20 August 2020 from the FGRO which has a formal 'status number' and refers to something having been '*submitted by*' F '*against*' M; this suggests that prior to that date F had taken a more formal step than he attests. The letter does not give F 'advice' as he suggests. It states that '*given that [M] is outside the state, there is no objection to opening a case file of personal status within 3 months of the dispatch date*'. It concludes that '*This dispatch has been issued upon the request of [F]*', which is inconsistent with F's case that he was merely being *advised* by this department.
34. On 21 August 2020, M's solicitors sent F a chasing email advising him that M's divorce petition had now been sent to the court for issue. The letter repeated the request for confirmation that F would not remove the children from the jurisdiction or M's care. F did not respond to this letter; nor did he advise either M or her solicitors that he had been taking formal steps in Dubai. On 28 August 2020 M's divorce petition was issued by the court.
35. On 31 August 2020 F issued in the Muslim Personal Status Court a '*Claim for Family reformation by obliging return of the defendant wife and the two daughters to the plaintiff (father)*'. The relevant papers were sent to M on 8 September 2020 including notice of a hearing listed in Dubai on 27 September 2020.
36. On 18 September 2020 M issued an application in the Family Court for a child arrangements order and a prohibited steps order. These were transferred to the High Court and came before Peel J on 12 October 2020. F accepted at the hearing that the children

should live with M in England and Wales and an order to that effect was made by consent. The order recites M's position that F was welcome to spend time with the children in England and Wales, subject to appropriate safeguards. It also records an indication from the court that were F to come to this jurisdiction there was no reason in principle why contact could not take place by agreement between the parties. The court gave a direction for page-limited statements to be filed, and provided for an expert report to be commissioned in relation to relevant issues of law in Jordan and the UAE. It also directed a Cafcass report. Provision was made for interim contact by video three times a week and an interim prohibited steps order was granted. M's request for a port alert was refused.

37. On 12 October 2020 M's solicitors sent F an email attaching a copy of M's petition together with an acknowledgement of service for him to complete and return to the court. F ignored the email and did not return the acknowledgement of service. A chasing email on 15 October 2020 also went unanswered.
38. On 27 October 2020 the claim F had issued in Dubai was rejected by the court for lack of jurisdiction as the children were not resident in Dubai.
39. On 16 November 2020 M's solicitors sent a further email to F about the divorce requesting a response to previously unanswered correspondence. There was no response to this email.
40. A further case management hearing took place on 18 November 2020 when the court directed a report from an ISW, Hilary Trevelyan, in place of the earlier direction for Cafcass to report. M was given permission to serve her petition by email.
41. On 25 November 2020 M's solicitors formally served the divorce petition. They requested F to return the acknowledgement of service. F did not respond to that email; nor did he respond to a follow up email sent on 27 November 2020. A further email sent on 3 December 2020 was eventually answered by F on 13 December 2020; he said that he was seeking legal advice and would revert as soon as possible.
42. By 18 January 2021 M's solicitors had not received a substantive response from F about the divorce and sent him a further chasing email. He responded the following day saying that he was seeking legal advice on how to fill in the form and expressed a wish to attend mediation.
43. On 19 January 2021 there was a case management hearing before Poole J at which further directions were given timetabling the matter to a final hearing. The court made an order varying the provisions for video contact. It gave other directions including a requirement for F to '*serve documentary evidence, including bank statements if available or showing cash receipt of funds, and the transfer part of this fund to the mother, in respect of the sale of the two properties in Jordan*'.
44. On 19 February 2021, M's solicitors sent F a yet further email about the divorce as he had yet to respond substantively to any of the previous correspondence and had not returned the acknowledgement of service. No response was received and a chasing email was sent on 4 March 2021. F responded on 8 March 2021 by repeating his request for mediation.
45. On 9 March 2021, M's solicitors wrote again to F explaining that M did not consider it appropriate to mediate about the divorce. They also complained that F had not provided

adequate evidence to support his assertion that he had sold two apartments in Jordan (the latter complaint was repeated on 12 April 2021).

46. On 22 April 2021 F wrote again about the divorce. He did not return the acknowledgement of service or explain his failure to do so. He repeated his request for mediation. This exchange led to further emails being exchanged on 22, 23 and 26 April 2021, but no substantive progress was made.
47. Since the move to England, M says that both children have thrived. Y has received good medical care and has not been *admitted* to hospital (although she has been taken to hospital on occasion, including at least once to A and E). After some initial difficulties O appears to have settled down and is doing well at school.

The law

48. In deciding what orders to make, the best interests of the children are my paramount consideration. It is necessary to evaluate their best interests having regard to all of the matters set out in the ‘welfare checklist’ in section 1(3) of the Children Act 1989.
49. Section 1(2A) of the 1989 Act requires me to presume, unless the contrary is shown, that the involvement of both ‘*parents*’ in the life of the children will further the children’s welfare. The sub-section does not prescribe any particular form of involvement that will achieve this objective; however, by virtue of section 1(6) a person does not fall within the definition of a ‘parent’ for these purposes if there is evidence that their involvement in a child’s life would put the child at risk of suffering harm ‘*whatever the form of involvement*’. It has not been submitted to me that the qualification in s 1(6) applies in this case.
50. One of the matters identified in the welfare checklist to which I must have regard is ‘*any harm which [the children] [have] suffered or [are] at risk of suffering*’. In a case involving a dispute about the temporary removal of the children from the jurisdiction, this is a factor of particular relevance in the overall welfare evaluation. Mr Edwards drew my attention to the decision of the Court of Appeal in *Re A (Prohibited Steps Order)* [2013] EWCA Civ 1115, [2014] 1 FLR 643 where the court applied the principles set out in *Re K (Removal from Jurisdiction: Practice)* [1999] 2 FLR 1084 and *Re M (Removal from Jurisdiction: Adjourment)* [2010] EWCA Civ 888, [2011] 1 FLR 1943.
51. At paragraphs 23 and 25 of *Re A* Patten LJ said the following:

[23] The overriding consideration for the court in deciding whether to allow a parent to take a child to a non-Hague Convention country is whether the making of that order would be in the best interests of the child. Where (as in most cases) there is some risk of abduction and an obvious detriment to the child if that risk were to materialise, the court has to be positively satisfied that the advantages to the child of her visiting that country outweigh the risks to her welfare which the visit will entail. This will therefore routinely involve the court in investigating what safeguards can be put in place to minimise the risk of retention and to secure the child's return if that transpires. Those safeguards should be capable of having a real and tangible effect in the jurisdiction in which they are to operate and be capable of being easily accessed by the UK based parent.

[25] As the quotation from Thorpe LJ's judgment in *Re K* (see paragraph 19 above) confirms, applications for temporary removal to a non-Convention country will inevitably involve consideration of three related elements:

- a) the magnitude of the risk of breach of the order if permission is given;
- b) the magnitude of the consequence of breach if it occurs; and
- c) the level of security that may be achieved by building in to the arrangements all of the available safeguards.

It is necessary for the judge considering such an application to ensure that all three elements are in focus at all times when making the ultimate welfare determination of whether or not to grant leave.

52. As these passages make clear, the evaluation is not confined to an assessment of risk; ultimately the court needs to conduct an overall assessment of welfare, balancing any risks against other considerations. Before a court permits a child to travel to another jurisdiction for a holiday it must be satisfied that the advantages of doing so outweigh the risks.

53. I have also considered two relatively recent decisions in which the court has considered whether to allow children living in this jurisdiction to spend time with a parent in Dubai:

- (a) *Re M (Children) (Non-Hague Convention State)* [2020] EWCA Civ 277, [2020] 2 FCR 739 (Court of Appeal);

and

- (b) *Re X (Children) (Contact out of the Jurisdiction)* [2020] EWHC 1929 (Fam), [2021] 1 FLR 200 (Lieven J).

Each of those cases turned on its own facts and involved an application of the principles summarised in *Re A* (above).

54. In circumstances where M describes her marriage to F one of 'continual, passive coercion' I have also re-read and considered Family Procedure Rules 2010, PD12J, the Court of Appeal decision in *Re H-N and Others (children) (domestic abuse: finding of fact hearings)* [2021] EWCA Civ 448 and the decision of Hayden J in *F v M* [2021] EWFC 4. This is not a case in which it has been suggested by M that a separate fact-finding hearing is required before the court can go on to make substantive welfare decisions.

Findings of fact

55. I have made my findings on the balance of probabilities.

56. I begin by setting out my impressions of the three lay witnesses whose evidence I heard remotely, namely M, M's friend CD and F.

(a) The mother

I consider that M was essentially truthful, but that her evidence was tainted to some extent by exaggeration. Her recollection of events was not always accurate (for example, she accused F of having improperly obtained a message sent to her by her sister, whereas it transpired that she had forwarded the message to F herself). She has a genuine and deep-rooted fear that the children may be abducted by F to Dubai or Jordan or retained by him in either of those jurisdictions. She also experienced what became a deeply unhappy marriage during which her personality changed (as I set out below). She described her time in Dubai and her relationship with F through the prism of her fear and her unhappy memories. As a consequence, her

evidence came across as one-sided. She sees things in black and white terms and is reluctant to acknowledge the positive aspects of F and his relationship with the children.

(b) CD

She is a practising solicitor (not a litigator) and a childhood friend of M. She is obviously loyal to M, but I found her evidence to be balanced, reliable and truthful.

(c) The father

As well as hearing F give oral evidence under oath, I had the opportunity to hear him put questions to the other witnesses who gave oral evidence; he cross-examined M for slightly over two and a half hours. My overriding impression of him was that he lacks empathy. He believes that he is entirely right about what has occurred in the past and that M is entirely wrong. I consider that F's evidence that the parental relationship was '*very healthy*' throughout the marriage was wide of the mark. There were also specific aspects of his evidence where I did not consider he was being entirely frank with the court. Although I do not go so far as to reject his evidence entirely, I did not find him to be reliable as a witness and, whilst reminding myself of the decision in *R v Lucas*, I must treat his account with some caution.

57. In my judgment, as I have recorded above, M is genuinely fearful of F and believes that he poses a risk of abducting the children; I reject F's claim that she has sought to bully him and is motivated by a wish to deprive him of a relationship with the children. I do not, however, accept M's portrayal of F as having undergone a wholesale change from a '*liberal Muslim*' to a person so devout that religion dominated every aspect of his life. I find that the true position is more nuanced than M has articulated.

The marriage

58. In the early part of the relationship the parties were very much in love and, in my judgment, this is likely to have masked the large gulf in their religious, personal and cultural beliefs. F asserts that his religious beliefs have never changed. While I consider that this is largely correct, it is likely that when he was mixing with M in a Western environment he downplayed his religion as an important aspect of his life. As he said himself in evidence, M would not have been aware of the extent to which he was praying in private. It is also a fact that he was having a sexual relationship with M outside marriage, which suggests that at that time he was willing to depart from certain aspects of his faith. M was very much in love with F and wanted her relationship to work. I believe that she is likely to have overlooked and underestimated the extent to which religion was important to him.

59. Accordingly, I do not consider that following the marriage F underwent a dramatic change from a '*liberal*' to a '*strict*' Muslim (expressions which are in any event subjective). I find that as the relationship progressed M became more exposed to and aware of F's religious beliefs and that he became less inclined to downplay them. The arrival of children was an important milestone for the family. It was (and is) of great importance to F that the children should be brought up in accordance with the Muslim faith and, in my judgment, this factor is likely to have resulted in religion becoming a more prominent theme in the household. I accept M's evidence that F's change of job in Dubai was also significant, as from that time onwards F was no longer working with the international community. Although I find that it is going too far to say this was '*the beginning of [F]'s journey to a more devout approach to Islam*' I consider it likely that aspects of M's behaviour and dress began to be a source of embarrassment for him. I accept M's oral evidence to the effect that F would badger her

with requests to dress with increasing modesty (in particular when F's parents were staying or when the parties were in Jordan).

60. M relies upon the evidence of CD as illustrative of the hardening of F's beliefs. CD describes that in the summer of 2013 (either late July or early August; she could not recall the exact date) the parties came for supper at her mother's house in Essex when O was a newborn baby (just a couple of weeks old). CD was living with her partner in London at the time and was excited at the prospect of seeing her childhood friend. She says that when she met the parties *'it was immediately apparent to me that their characters had both significantly changed since we had last seen them [before their move to the UAE]'*. She was surprised by F's request for somewhere private to pray. She was also struck by M's nervous demeanour, which she initially put down to the arrival of the new baby. She was surprised that in circumstances where M had recently given birth F was demanding that she fetch him a drink and that she appeared anxious to tend to his needs. She felt that her friend had gone from being *'confident, articulate, outgoing and interesting'* as a person to *'subservient, quiet and nervous'*. She observed F to have gone from being *'gentle, polite and humble'* to *'assertive, argumentative and aggressive'*. She was especially shocked by a remark F made during the course of a conversation about religion. CD asked M whether she had plans to convert to Islam, to which F interjected to say that she could not do so until she was ready as there would be no going back. He asserted that the penalty for doing so would be *'death'* and went on to say that once you are a Muslim *'you cannot un-become one. If [M], or my child are not good Muslims, I would have no choice but to kill them.'*
61. The dinner to which I have referred in the preceding paragraph took place nearly eight years ago. I am conscious of the fact that after that length of time it is very difficult to remember conversations with precision and that memories can become distorted. Nevertheless, having heard CD's evidence, I am satisfied that her recollection of that event is essentially accurate (even though she may not remember verbatim what was said and her memory may now give greater prominence to those aspects of the evening which she found shocking at the time). I do not accept F's explanation to the effect that the conversation was merely about the generic position that a person who renounces Islam may be subject to the death penalty in a number of state courts. I do accept that F was fasting at the time and that this, coupled with M having recently given birth, is likely to have meant that both parties were tired and no doubt irritable. I do not believe that F either does or did believe that he is under an obligation to kill M (still less the children) because she has renounced Islam. In my judgment, it is likely that he felt irritated and impatient with questions being asked about his religion and made the remark described by CD in order to shock those present. I believe that CD's recollection as to the change in the parties' demeanour was fundamentally accurate. It can be partially explained by the fasting and the newborn baby, but that is not the whole explanation. It corroborates M's case that religion had become a more prominent feature of the marriage and that, in her eagerness to please F (with whom she remained in love at that time), she was becoming increasingly subservient.
62. By the time of O's birth the parties were living in Dubai. In my judgment, it is likely that M began to feeling increasingly isolated and unsupported following the birth. She was living a long way from her family and did not have a network of close friends to whom she could turn for support in Dubai. The arrival of a child brought F's religious beliefs into sharper focus. In his oral evidence he spoke about how becoming a father led to him having greater *'responsibility in life'* and said that the way he looked at life became different. The parties had agreed that their children would be brought up as Muslim and it was a matter

of importance to F that this agreement was adhered to. He is also likely to have become more critical of aspects of M's behaviour which he considered immodest or un-Islamic and, as I have said, I accept M's evidence there were things she said or did which he will have found embarrassing. In my judgment, F was oblivious and insensitive to M's isolation in Dubai and to the impact which his approach had upon her.

63. I consider it an exaggeration, however, to suggest that F became so domineering that M became wholly subservient to him. M does not allege that F has been violent towards her or that he has threatened her with violence. F points out that the family did, at Christmas time, enjoy taking the children to see Father Christmas (which he corroborates with photographs). He also says that the family would spend time on the beach (albeit in the photographs he has produced M is fully dressed), at water parks and enjoying other leisure activities including socialising with friends. The parties did not simply live a restricted life in Dubai: they travelled to other jurisdictions on holiday and M and the children returned regularly to England to see M's family (M accepted in her oral evidence that she was able to travel freely, albeit she said that F did not like her doing so). M learned to drive in Dubai and had the use of a car. She was also able to run a sewing business from home (for which she had a dedicated room in the house). After O became unhappy at school in Dubai, F readily agreed to her being schooled in England and was willing himself to relocate to this jurisdiction (it was M who discouraged him from doing so).
64. I accept M's evidence that F would express his disapproval of M by ignoring her and refusing sexual intercourse. This is likely to have aggravated M's feelings of loneliness and isolation. In my judgment, as a result of her eagerness to accommodate her husband and make her marriage happy, M became increasingly willing to compromise her own beliefs. She behaved in ways intended to please F and refrained from doing things which she felt were likely to displease him. Examples of the latter included not singing or playing the guitar, activities which were not, I find, 'forbidden' by F but of which he disapproved. There developed an unhealthy dynamic in which F would make plain to M his wish that she abide by certain standards acceptable to him; M sought to appease him and was largely compliant with his wishes. Whereas M had once been lively and extroverted, she became increasingly withdrawn to a point where she felt that she was no longer the person she had once been.
65. That is not to say that M was like that all of the time. There were no doubt times when the parties were able to enjoy outings, holidays or even just spending time as a family at home. M, however, increasingly will have felt that she was walking on eggshells; she was constantly vigilant not to say or do the wrong thing and incur F's disapproval. In my judgment, F lacked an awareness of how M was feeling and did not appreciate that what he perceived to be reasonable requests that M should conduct herself modestly were having a seriously detrimental effect on her state of mind. I consider that part of the reason for F's lack of awareness was that M struggled to communicate how she was feeling; the more fundamental reason was a lack of insight and empathy on F's part. He could not put himself in M's shoes and understand how difficult it must have been for her to be living an isolated life so far away from her family, confronted with his increasing criticisms and requests that she modify her way of being. F continues to lack insight and empathy, illustrated by his averment that he has been '*bullied emotionally and financially*' by M.
66. I accept that F loved M and sought to demonstrate that at times in affectionate ways (an example being the video he prepared for Valentine's Day in 2019). Romantic gestures of

this type did not diminish the real difficulties which M experienced and largely internalised as a result of her day-to-day experiences of married life and her increasing perception that she was expected by F to align herself with his cultural and religious beliefs and practices.

67. M's case is that the parties fell out of love in 2015, although neither of them was willing to admit it at the time. I think that, in so concluding, M is looking back on the relationship with the benefit of hindsight. I doubt that there came a specific point at which the parties fell out of love; it is likely to have been a more gradual process. M does recall (and I accept) that on F's thirtieth birthday, which he celebrated in September 2015, in answer to a question from M as to what he wanted as a gift, his response was that he wished for her to take classes in Islam. M describes this as one of the saddest days of the marriage.
68. In February 2015 the parties' second daughter Y was born. It is common ground that she suffered from very poor health while the parties were in Dubai: she had repeated chest infections, some of which required hospitalisation. This will have created enormous anxiety for both of the parents. In my judgment, it is also likely to have caused the marriage, already under strain, further to deteriorate. I do not accept M's case to the effect that F was wholly opposed to Y being treated by doctors using conventional medicine (*'you fought every one of the doctors'*) in favour of alternative remedies such as the *'evil eye'* treatment or placing *'mud on the feet'* promoted by his father. The medical records establish that Y was treated on a considerable number of occasions by doctors, which I do not believe would have happened had F been as adamantly opposed as M suggests. I can well imagine that the regular hospital visits created tension in the marriage as treatment to the extent required by Y is likely to have proved expensive and caused a degree of financial strain; there was also the obvious stress of having a young child who was repeatedly unwell. In my judgment, it is likely that F did challenge the doctors, at least some of the time, in circumstances where their repeated interventions to treat the parties' child did not seem to be working. I also find that F did advocate the use of alternative remedies such as the *'evil eye'* treatment, partly out of respect for his father but also because he was anxious to try any possible remedy to see whether it would have a curative effect.
69. I consider that F was not fully attuned to Y's medical needs. Although I do not find that he was as neglectful as M suggests, I accept her evidence that there was an occasion when – out of his desire to be hospitable to his parents – F insisted upon taking a family trip to the desert despite both Y and M being very ill (oblivious to the fact that this was putting the health of his young daughter at risk). I also accept M's oral evidence that there was an occasion when Y had a temperature and was being comforted by M when the paternal grandmother insisted that M put her down. She (the grandmother) wanted F to treat Y by spiritual means with the Quran. M watched as Y's temperature went *'through the roof'* whereupon she removed Y from the grandmother and rushed her to hospital.
70. The instances I have described in the preceding paragraph, serious though they were, need to be counter-balanced by the fact that there were two occasions when M travelled to England alone leaving F to care for the children in Dubai for a few days. I do not believe that she would have done so had she regarded him as a wholly negligent parent whose care was so deficient that he posed a risk to the children's safety.
71. By 2018 there were very serious difficulties in the marriage, even though these were not evident to F. The move to Mirdif and the consequent change of school for O had the effect of bringing matters to a head. Although they may have disagreed about the reasons, it was

plain to both parties that O was unhappy at school. It was also clear to M that O was finding life in Dubai difficult (although I consider that O's unprompted description to the ISW of being chased down the street due to her blonde hair is likely to be something she picked up from M as opposed to a recollection of something she experienced). O's difficulties led to the parties' discussions and agreement that M would move to England with the children for an undefined period and that O would be enrolled in school here.

72. Following the move to England, the parties remained in friendly communication and, as I have described above, F visited the family in England from time to time. In her oral evidence, M asserted that her overtly friendly messages to F were in reality a charade, used by her to conceal her fundamental unhappiness and wish to end the relationship; she said that the reason she kept her true feelings hidden was her fear of how F would react if he became aware of the truth. In a sense, F was correct to describe the approach M adopted as one where she had 'two personalities': outwardly she kept up the appearance (to F at least) of being a loving wife whereas in reality she was consumed by turmoil, anxiety and fear.
73. In my judgment, things were not as clear cut as M appeared at times to suggest in her oral evidence. It is significant, that she was willing to travel to Dubai with the children in October 2019. She made clear in evidence that part of her motive for doing so was that she wanted to explore for herself whether there was any final possibility of saving the marriage rather than proceeding down the path of separation and divorce that was uppermost in her mind. I do not believe that she would have made this trip had she believed that F was likely to take steps to prevent her return. On the other hand, M's evidence (which is independently corroborated) about the system of alerts she would set up whenever F came to visit England does suggest a very high degree of anxiety on her part as to the potential for him to abduct the children in the event that she were to act in a way which displeased him. F had not threatened to abduct the children and, indeed, had agreed that they could remain in living in England. M's anxiety about abduction was thus to a significant extent self-created, driven by what she perceived to be his increasingly fundamentalist approach to religion and no doubt aggravated by reports she may have read about other cases in which children have been abducted to or retained within jurisdictions in the Middle East. It was her belief that she would '*lose her children*' following divorce were the dispute to be resolved in the UAE.
74. I do accept that following M's move to England there was a lengthy period of time in which she felt a need to end the relationship but did not know how to do so and was fearful of the consequences.
75. At the start of 2020, communications between the parties were becoming increasingly strained. I accept F's evidence that their conversations became more focused on financial issues rather than the children and that M would make excuses not to answer his calls. The onset of the Covid-19 pandemic had the effect of bringing matters to a head. F had been due to travel to England in the spring of 2020, but this trip had to be cancelled.
76. F was pressing for answers about the future. He wanted to know whether M intended to return to Dubai with the children or whether he should make plans to move to England. Eventually, in May 2020 M informed him that there was no future in the relationship and she wanted to divorce. The news came as a shock to F. He wanted to save the marriage and his initial response was to send M a lengthy and heartfelt email on 28 May 2020 in which he sought to remind M about the happier times and implored her to give the marriage

another chance. He did not realise M was firm in her decision, her mind having been made up for some time.

77. M's communication brought to an end a relationship in which she had been deeply unhappy and fearful for a number of years. I have considered whether F's conduct towards her can properly be described as 'coercive' or 'controlling'. I can understand why she uses the expression '*passive coercion*' as it perhaps encapsulates the relationship as she experienced it. Ultimately, however, my conclusion is that F's conduct did not amount to coercion or control. I find that he was selfish, moody, insensitive, at times demanding and above all unempathetic. It is not suggested, however, that he ever used or threatened violence against M. Nor did he seek to restrict her freedoms or limit her access to money (at least, in the latter case, not prior to the final breakdown of the marriage). He readily agreed to her moving to England with the children when it was apparent that O was unhappy at her new school. In coming to this conclusion, I do not seek to minimise the effect of F's behaviour on M. Its impact upon her was magnified considerably by her isolation in Dubai and the fear she had as to the potential consequences for herself and the children were she to separate from F.

Events since May 2020

78. Although F's initial response to M wanting a divorce was entirely appropriate, his conduct since then has been anything but so. His actions have been driven by an inability to accept that M should be able to divorce him. Having been informed by M's solicitors that M wished to issue a divorce petition (and afforded the opportunity to comment upon it), F chose instead to ignore that correspondence and, without informing M, took various steps in Dubai culminating in his application for an order requiring M and the children to return to him in Dubai. I regard F's assertion that he did so solely as an attempt to reconcile with M as disingenuous. The order he sought, if granted, would have required M to return to his household against her will; it is hard to fathom how F could have concluded that such action was conducive to reconciliation. Even if what F says about his motivation is true, it is a clear example of his lack of insight. Inevitably, the effect of his application has been to cause M's levels of anxiety and distrust to skyrocket. Understandably, in my judgment, it is difficult for her to accept that F is genuine in his acceptance that the children should remain living in this jurisdiction, when less than a year ago he made an application to the opposite effect.

79. Since the onset of these proceedings, F has conducted himself poorly in other ways which have not been conducive to dispelling or reducing the anxiety which M feels. His repeated failure to respond substantively to M's solicitors' emails about divorce, even allowing for the fact that he has been acting in person, is a further demonstration that he is unable to accept that M should divorce him. It also shows an inclination on his part to be obstructive and stubborn when it suits him to do so.

80. F failed to provide adequate evidence as to his receipt of funds from the sale of two flats in Jordan as was required by the order of 19 January 2021. I do not accept that he was unable to obtain relevant bank statements; in my judgment, he did not do so as he did not wish to disclose details of his bank account to M, presumably fearing that it would assist her in bringing financial proceedings against him.

81. F has reduced the amount of periodical payments he pays to M: previously (until the first lockdown) he was paying some £2,200 per month; that sum has since been substantially

reduced, first to £500 per month and, since December 2020, to approximately £233 per month. F says the reduced payments result from a Covid-related decrease in his income. In the absence of evidence to corroborate this assertion I am unable to accept it. I am unclear about the reasons for the initial, more substantial, reduction in maintenance, but my conclusion is that the more recent reduction was a petulant response to M's litigation against him in this jurisdiction and, in particular, the service of her statement. I similarly conclude that F's decision to withhold payment of fees from the experts was motivated by his displeasure with the content of their reports.

Difficulties with indirect contact

82. One of the issues I have had to consider has been indirect contact, currently taking place by video three times a week. It is common ground that this has been beset by difficulties, although the cause is in dispute. M asserts that the contact has always been unsatisfactory. She says that before the commencement of these proceedings the children found the video calls 'hard' as F would speak to them only in Arabic and that the calls would focus upon the extent to which the girls were observing the practices of F's faith. In her second statement she describes the calls as 'confrontational'; she took notes in her diary about some of the calls and has reproduced in her statement extracts of those notes.

83. In my judgment, M's characterisation of the calls is an exaggeration. I am satisfied that F did question the children during the calls about their religious observance (this was a particular concern of his on the one occasion he visited Y's nursery, as noted by the nursery teacher). I also accept that on occasions F shouted at the children and caused them to become upset. I do not, however, accept that the calls were almost exclusively devoted to the theme of religion or that in the main they were a negative experience for the children.

84. M has produced a 'report' from NP who taught O mindfulness from May 2020 onwards. She had a session on 19 September 2020 when she observed O to be more confident and 'settled in her self' (sic) than previously; there had been an improvement in her self-esteem, general demeanour and confidence. NP wrote as follows:

'When we talked about family [O] talked of her family and cousins on her Father's side. [O] clearly likes that she has a huge family. She went on to tell me that she likes to speak to Daddy on face time and that they play snakes and ladders.'

I find this evidence, which comes from a neutral source and was produced by M, persuasive. I also note that Y later told the ISW that '*Daddy is happy when playing games with us on Zoom*'.

85. In my judgment, it is likely that the children had a fundamentally good relationship with F prior to leaving Dubai. Although the move to England in 2018 has, after some initial difficulties, led to the children becoming more settled, it has also created a distance between them and F. This has been particularly stark in the period since October 2019, when they last saw him other than on a screen. It is very difficult to maintain a relationship with young children solely by remote means over such a long period of time. I am sure that F made an effort to engage in child focused activities which the children enjoyed; I am also satisfied that the children will have found it increasingly difficult to relate to his discussions about religion and that it will have been upsetting to them to be told off from afar. These issues were, however, comparatively minor; I find that on the whole, prior to approximately September 2020, the video contact is likely to have been mainly positive for the children.

86. The video contact has become much more problematic following the commencement of proceedings. M's fear that the children might be abducted increased manifold following F's issue of proceedings in Dubai. I believe that this will have caused her to be in a heightened state of vigilance and that this anxiety will have been transmitted to the children. Her heightened anxiety has been reflected, in my view, in increased monitoring of the video contact, a concern by her that F was making more effort to be child focused during contact for forensic purposes, an unwillingness to allow the ISW to observe a period of contact in which the children were opening presents from F and a determination to ensure that the children were not presented by F with what she regarded as a false picture of their experiences in Dubai. The contrast between F highlighting to the children the good times they enjoyed in Dubai and M seeking to do the opposite has resulted in what has been described by the ISW as a parental '*battle over the children's memory, which is clearly not in their interests*'.
87. The children have been caught in the middle of this battle. Their primary loyalty is to M, their primary carer. Their awareness of her anxieties is likely, in my judgment, to be the main cause of the more recent problems with the video contact. F must also accept a substantial degree of responsibility for having acted in ways which have fuelled those anxieties.

The expert evidence

Mary Barton

88. Mary Barton is a qualified solicitor in England and Wales who specialises in international family law and has previously practised in the UAE as a Dubai licensed Legal Consultant. She is well known as an expert in matters of UAE family law. She does not have the same level of expertise when it comes to Jordanian law; her evidence about this was based upon her research as opposed to experience of practising in that jurisdiction. Her evidence was clear and balanced and I have no difficulty in accepting it. It was to similar effect to the evidence given by different experts about Dubai law in the cases of *Re M* and *Re X*, to which I have referred above. There is, however, an important distinguishing feature between those cases and this one (as I describe below).
89. Ms Barton's evidence was that neither the UAE nor Jordan currently has jurisdiction in respect of the children. Each of those countries could, however, assume jurisdiction if the children were present there, for example for a holiday. As a matter of general principle, in both jurisdictions there is a presumption that following a parental separation and divorce, children will live with their mother until a specified age. The children's father will retain the status of guardian, which confers upon him extensive rights including the right to prevent the children being removed from the jurisdiction. Neither Dubai nor Jordan recognises orders made by an English family court. However, it is possible in both jurisdictions for the parents to enter into a written agreement, which must not offend principles of Sharia law or public morals in that jurisdiction. It is also possible to enter into a consensual judgment in terms of any agreement. Although, such agreements or judgments do not offer a complete guarantee that children will not be retained in those jurisdictions, they are highly likely to be upheld by the courts.
90. The problem in this case is that M has renounced Islam and would thus be regarded as an apostate in both Jordan and the UAE. In those circumstances, the normal presumption that children should live with the mother does not apply. On the contrary, as Ms Barton makes clear M's apostasy means that it is unlikely that she would be acknowledged as the

children's custodian (the chances of her being granted custodianship is '*practically zero*'). In contested proceedings custody would be awarded to the next person in line: in Dubai this would most likely be F if he had a suitable female carer who could live with him; in Jordan it would probably be a female member of the paternal family.

91. M's apostasy creates a *Catch 22* situation in relation to the parties' ability to enter into a written agreement or consensual judgment in relation to the children. An agreement which records M's apostasy and confers custody upon her would offend principles of Sharia law and almost certainly be rejected by the courts. On the other hand, an agreement or judgment which omitted to mention M's apostasy would be very vulnerable to being varied or set aside if either F or another member of the paternal family were to make an application to the court in reliance upon her apostasy. Ms Barton made clear in her oral evidence that, although contested proceedings would take a number of months to conclude, it would be possible to obtain interim orders at short notice. Accordingly, in my judgment, the important safeguards of the type put in place in *Re M* and *Re X* would not realistically be available.

Hilary Trevelyan, Independent Social Worker

92. Hilary Trevelyan is an experienced ISW who prepared a report dated 15 January 2021 and a subsequent addendum. For the purposes of her report she interviewed both parents (in F's case remotely). She also visited and spoke to the children at their home, where she also spoke to members of the maternal family. She observed two periods of video contact with F and received information from a teacher at O's school. She did not speak to members of the paternal family and I bear that in mind. She has read the court papers.
93. When the children spoke to Ms Trevelyan Y was relatively unforthcoming and disinclined to say negative things about F. O on the other hand spoke clearly in negative terms about F and her life in Dubai and was especially negative about Jordan: '*I never want to go to Jordan again. I hate it there.*' Ms Trevelyan gained the impression that the children had been '*prepared*' for her visit; in her oral evidence she stated that O's unprompted account of being chased down the road in Dubai had led her to form this impression. She also stated that she would have expected to receive a more balanced view from O and noted that her expressed views were very similar to those of her mother. She expressed concern about the behaviour of the children during their video contact with F, stating that they had been disrespectful towards him; for example, they had ended a call early without saying goodbye. She wondered how much of their behaviour '*had come from them.*'
94. Ms Trevelyan stated in her oral evidence that it would be very difficult for the children to travel to Dubai without M at their ages (leaving aside the question of risk). In part this was because they would be returning to a jurisdiction with which they hold negative associations. She spoke about the need for '*repair work*' before visits to Dubai could be considered. She felt that F's relationship with the children needed to improve and that he would benefit from some help in achieving this. Given the children's ages when they left Dubai, Ms Trevelyan considered that it was very difficult to establish to what extent their expressed '*memories*' of Dubai were real and how much of what they were saying had been '*layered over time*'. Nevertheless, the anxieties they felt about that country were real. She felt that the process of leaving Dubai and later ending the marriage had been '*quite traumatic*' for M. The children were naturally aligned with M and would pick up on her anxieties. Ms Trevelyan's view was that M had not set out to obstruct contact as a reaction

to the ending of the marriage; rather she was genuinely fearful of F and the impact that contact would have on the children.

95. Ms Trevelyan received information from O's current school. When O started in Year 1 she was working below the expected level, but she was meeting the expected standard by the end of the academic year. She made good progress in Year 2 and enjoys learning. The school teacher expressed the view that O '*struggles with transition*'. She had been very subdued when she arrived in Year 1 and was also subdued following her visit to Dubai in October 2019. However, she regained her confidence and sociability within a couple of weeks. There was also evidence of her being subdued when she first moved from Year 1 to Year 2.
96. One of the matters highlighted by Ms Trevelyan was the importance of the children's mixed identity. She suggested that the parents should attempt to achieve consensus as to how they should bring up the children in a way that promoted their dual heritage.
97. Ms Trevelyan considered that, notwithstanding the difficulties, the indirect contact by video should continue to take place three times a week. It would, however, be preferable if this could be facilitated by a person other than M; she also suggested that it take place at different times when the children might be less tired. The time should be reduced to a minimum of 15 minutes per session, to be extended if the contact was going well. There should be direct contact between F and the children in England during every school holiday and, if possible, over half terms as well. Her view was that until the relationship between F and the children had become more established the contact should be supervised albeit it should include some overnight stays. She suggested that the court should timetable a review hearing at which the progress of contact and the need for ongoing supervision could be considered.

Discussion

98. I have considered all of the matters in the welfare checklist. The following are of particular relevance in this case.
99. Although O has expressed strong opposition to Dubai as well as negative feelings towards F, I attach very limited weight to her views in view of her young age (7) and the conclusion I have reached that her views are the product of significant influence by M. I agree with Ms Trevelyan's view that the children had been '*prepared*' for their meeting with her; in my view they had been primed by M to speak in negative terms about Dubai and Jordan. I also consider that the children have been exposed to M's considerable anxieties about F for a prolonged period of time and that this will inevitably have coloured how they now feel. It was, in my judgment, damaging to the children's relationship with F for M to seek to 'counter-balance' his accounts of the positive times the children enjoyed in Dubai by engaging in a battle for the children's memory. The evidence from the mindfulness teacher to which I have referred above does suggest that before the onset of the proceedings the children were able to enjoy a positive relationship with F.
100. The children's physical and educational needs are being well met, but their emotional needs are not. They need to have a good relationship with both of their parents and their relationship with F has become ruptured. Both parents are to some extent responsible for this. F is unempathetic and does not appreciate the effect that his actions have had upon M; he does not realise that, in part, as a result of things he has said and done she has a

genuine anxiety – a fear – that the children may be abducted by him. M, driven largely by that fear, has acted in ways which have harmed the children’s relationship with F and does not properly recognise the children’s need to have a good relationship with both parents and the importance of promoting the children’s dual heritage. It is not only M’s actions which have caused the rupture. A substantial cause is simply the fact that F has not had direct contact with them for well over the year. I also accept that F too has conducted himself at times in ways which have not been child-focused and which have caused the children to become upset.

101. A key matter I need to evaluate is the risk that the children will be abducted. I accept F’s evidence that it is not his intention to abduct them, but this does not exclude the possibility that he may later change his mind. Having weighed up all the evidence, I have reached the conclusion that if the children were to stay with F outside the jurisdiction, the risk that he would retain them is significant and real (meaning realistic as opposed to fanciful). By this I mean that it is greater than a ‘low’ risk, but I would not go so far as to categorise the risk as one which would be more likely than not to materialise. In reaching this conclusion, I have borne in mind the following in particular:

- (a) F has never threatened to abduct the children and there is no evidence that he has ever attempted to do so. He has agreed to an order that the children should live with M in England and would be prepared to agree to a consensual judgment being entered in Dubai and/or Jordan to that effect. He has previously allowed the children and M to travel to England and agreed to them being enrolled at schools in England. I have accepted that it is not presently his intention to abduct or retain the children. These are all matters which reduce the level of risk.
- (b) On the other hand, it is very important to F that the children should be brought up in accordance with the Muslim faith and M’s stance in this respect is likely to concern him and lead him to the view that she is not promoting their best interests.
- (c) Although I make no finding on the disputed issue as to whether the paternal grandfather is an Imam, I accept that religion is important to the wider paternal family and I consider that they too are likely to be concerned as to the manner in which the children are being raised by M. I accept her evidence that she had to give the appearance of being an ‘Islamic wife’ in the presence of F’s parents and that in Jordan religion featured very prominently in the household where M experienced ‘*very obvious family disapproval*’. There is also evidence that in the past F has acted deferentially towards his parents, for example prioritising being hospitable towards them even though this meant jeopardising Y’s physical health. I consider it a very real possibility that F’s family will seek to influence him to take steps to prevent the children being raised by an apostate mother in a manner which contradicts their faith. In my judgment, this - in combination with F’s own views on the matter - gives rise to a significant risk that he may in future change his present position and seek to retain the children in Dubai or Jordan, acting in what he believes to be the children’s best interests.
- (d) In my evaluation of risk, I also take into account the manner in which F has conducted himself since M announced that she wished to end the marriage. His application to the Dubai court demonstrates a complete lack of insight on his part. It shows that in the very recent past he held the view that M and the children should

be in Dubai and that his current stance that they should remain living in England has not been a longstanding position.

- (e) F's refusal to engage with the correspondence about the divorce and his reduction of maintenance shows that he is capable of acting obstinately and petulantly. I do not believe he accepts that M should be entitled to divorce him. These matters are also relevant to my assessment of risk.
- (f) In my judgment, the risk of the children being retained in Jordan is slightly higher than the risk of retention in Dubai, as the influence of the paternal family is likely to be greater.

102. The consequences for the children of the risk materialising are so serious that they hardly need stating. It would be devastating for them to be removed from the life to which they have become accustomed since 2018 and for their ties with M to be severed; the impact upon them would be profound and long-lasting. The effects upon O would be especially severe: she is a child who reacts badly to change and whom the parents consider may be on the autistic spectrum (although no assessment has been undertaken). I do not believe that M would be able to cope with returning to Dubai if the risk of retention were to materialise. She is likely to become destabilised. Even if, despite her apostasy, she were able to enjoy a relationship with the children in future, it would be far more limited than that which they enjoy at present.

103. For the reasons set out above I do not believe that adequate protective measures could be put in place to mitigate the risk. The option of entering into a written agreement or a judgment in Dubai and/or Jordan would only minimally reduce the risk. Such an agreement would, in any event, not bind members of the paternal family who would be able to bring their own action. There was some suggestion that F might post a limited bond, but I do not consider that this would act as a deterrent to F changing his mind in relation to what he considered to be the children's interests. I also have no means of assessing the adequacy of any bond without evidence about F's financial circumstances. A bond would provide a fund for M to litigate; but in view of her apostasy, the ability to litigate in Dubai or Jordan would be an empty remedy.

104. I accept that the children have benefited from being able to enjoy spending times with the wider paternal family and consider M's account of holidays in Jordan to be an exaggeration (at least from the perspective of the children). All other things being equal, it would be in the interests of the children to be able to spend time with their family in Jordan and gain a first-hand experience of their Jordanian heritage.

105. I also accept that, all other things being equal, the children would benefit from being able to spend time with F at his home in Dubai. Having contact in England will be a more limiting experience for them as it will be based around hotels or rented accommodation.

106. I have come to the conclusion, however, that the benefits of having contact outside the jurisdiction are outweighed by the risks. Aside from those risks, I accept the evidence of Ms Trevelyan that contact outside the jurisdiction would not be in the children's interests at present given the extent of M's anxieties which, in my view, are to some extent justified and which have been transmitted to the children.

107. I consider that the risk of F attempting to abduct the children in England to be low. Attempting to do so would be a criminal offence and I do not believe he would take that step. It is also difficult to abduct children who are old enough to protest at the border. The risk can be further mitigated by having in place a port alert and requiring F to surrender his passport (although I accept that this would not prevent him from obtaining a duplicate if he were minded to do so). For the avoidance of doubt I do not accept M's implicit allegation that on 17 October 2020 during a video call F was making notes about the children's routine with a view to potentially abducting them. I accept F's evidence that he noted down the teacher's name and the name of the class, and I do not consider he had any sinister motive in doing so.
108. I agree with Ms Trevelyan's assessment that contact should initially be supervised by a professional such as a family support worker, but I do not think this is viable in the long term; it would involve a significant restriction on F's relationship with the children which I do not consider to be justified on the basis of the low risk that he might take the dramatic step of abducting the children from this jurisdiction.
109. I also accept in part Ms Trevelyan's recommendation in relation to indirect contact. At present this is taking place three times a week: one individual session for each child and one joint session. In my view it would be better for the contact to take place on two days a week as this will lessen the children's exposure to parental tension while maintaining the same number of weekly sessions for each child. On one of those days the children could have an individual session each; on the other day they could enjoy a joint session. It should also take place earlier in the day so that the children are less tired (I shall leave it to the parties to agree the times). The individual sessions should last for a minimum of 15 minutes each and the joint session for a minimum of 30 minutes.

Proposed Order

110. For the reasons I have set out above, I propose to make the following order:

- (a) Direct contact: F has said that he will not be able to come to England until the summer. Contact should initially take place over a period of 10 days (on dates to be agreed) and be supervised by a professional supervisor who can prepare reports for the parties. It should progress as follows:

Day 1: 2 hours
Day 2: 4 hours
Day 3: 4 hours
Day 4: 6 hours
Day 5: No contact
Day 6: 8 hours
Day 7-8: Overnight from 2pm to 10am the following day.
Day 9: No contact
Day 10: 8 hours

There should then be a second period of 10 days on dates to be agreed (either in the late summer or perhaps over the October half term) when it can progress as follows:

Day 1: 6 hours

Day 2-3: Overnight from 2pm to 10 am the following day
Day 4: No contact
Days 5-7: Overnight from 2pm on day 1 to 10am on day 3
Day 8: No contact
Days 9-10: Overnight from 10am to 4pm the following day.

The parties should have the ability to vary these times by agreement.

- (b) Indirect contact: This should take place in accordance with paragraph 109 above. For a period of 4 weeks (so soon as this can be arranged) the contact should be facilitated by somebody other than M. In the absence of agreement as to an appropriate person, it should be a professional contact supervisor. In addition to the twice weekly indirect contact, the children should also have a 15 minute video call on F's birthday, Father's Day and on important Muslim festivals (on one day only if the festival lasts for more than one day). Following the initial ten day period of contact referred to above, the children should be left alone when they have video calls with F.

After the initial ten day period of direct contact has taken place it would be appropriate for the children to start having indirect contact by video with their wider paternal family. This should be facilitated once every three months.

- (c) The costs of supervising the direct and (if necessary) indirect contact should be shared in the first instance (F has greater means than M, but will have to fund his travel and accommodation costs). The costs can be taken into account in any financial proceedings between the parties.
- (d) Review / further hearing: I do not propose to make an order for a further hearing at this stage as I consider that the parties should first attempt to reach an agreement about future arrangements. If the contact progresses well (and the parties will have reports) I expect them to reach a sensible agreement for F to have contact in England for periods of up to 2 weeks at a time during the school holidays and half terms. There should be provision for the children to be able to speak to M when they are with him. F should surrender his passports and, for a limited period of time, there should be a port alert in place when the children are with F as an added safeguard. The port alert should take effect from the date upon which the children first have unsupervised contact with F and remain in place until 9 September 2022 (i.e covering the first summer school holidays after R's ninth birthday), after which I do not think it could properly be justified. It will be the responsibility of M's solicitors, in conjunction with the tipstaff, to take the necessary steps to ensure that the port alert is put in place and removed at the appropriate time. A consequence of the port alert is that while it remains in place, neither parent will be able to leave the jurisdiction with the children. It needs to be made clear that the alert relates only to the children; F himself remains free to travel.
- (e) If the parties are able to reach agreement they should record it in a consent order which should then be sent to me for approval. In the absence of an agreement within 3 months of the second ten day period of contact having taken place, the proceedings should be restored, initially for directions. I will direct that M should be responsible for arranging for the matter to be restored in those circumstances. I will reserve such an application to myself (if available).

- (f) M's holidays with the children: The lives with order allows M to take the children on holiday overseas for periods of up to 28 days. This order should provide that during any such holiday, M must continue to facilitate the indirect contact with F. Prior to any overseas holiday, M must provide F with information about the dates of the holiday and the destination (she does not need to provide an address or flight details). M must also provide a contact telephone number (which can be her mobile number).
111. Other matters: It would benefit the children if the parties could attend mediation to discuss arrangements for the future and relating to the exercise of shared parental responsibility, in particular the children's religious upbringing. I do not propose to make an order about such matters at this stage as I have come to the view that it would be better for the parties to make a concerted effort to reach agreement. If necessary I may (I emphasise 'may') be prepared to resolve such issues at a later stage (although I make it plain at this stage that I do not consider it necessary for any order to contain a series of recitals which set out the effect of the parties having shared parental responsibility). Both parties are entitled to school reports, but I would assume that F can obtain these directly from the school. If the children suffer significant ill health, M must keep F informed, but she does not need to do so every time one of them has a cold or suffers a grazed knee. I expect her to exercise common sense about this.
112. I do consider it significant that the parties previously agreed that the children should be brought up as Muslims, an agreement which M has said she would respect. In circumstances where the children will not be travelling to Jordan and Dubai, it is imperative that their Jordanian heritage should be actively promoted by M. It is appropriate for the children to attend Arabic classes, but it may be better if these take place once such classes can happen in person if the online classes are proving difficult for the children. I also consider it appropriate that the children should not eat pork products and that M should respect this. Equally, F should refrain from questioning the children about their consumption and their religious observance generally.
113. As I have said, I do not propose to make an order about these matters, as it would be much better for the children if the parties could discuss them and come to their own agreement. I have set out my views to assist the parties in their discussions. Ultimately there needs to be some give and take on both sides. Parental conflict is damaging for the children and they will benefit greatly if the parents can find a way of co-operating with each other and restoring trust.
114. The children will be brought up mainly by M. This means that she has a particular responsibility to promote a positive image of F and of the children's Jordanian heritage. She must desist from seeking to 'correct' what she perceives to be F's overly positive messages about the time they lived in Dubai as such actions by her are damaging to the children's relationship with F and, ultimately to their own sense of identity.
115. This is my judgment.