



Neutral Citation Number: [2024] EWFC 162

Case No: ZW19P01465

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/06/2024

Before :

MS JUSTICE HENKE

Between :

A Mother

Applicant

- and -

A Father

Respondent

Re: D & E (Children: Assessment and Management of Risk)

Hannah Markham KC (instructed by **Dawson Cornwell LLP**) for the **Applicant**

The **Respondent** appeared as a **Litigant in Person**

Ursula Rice appointed as a **Qualified Legal Representative** to cross-examine the **Applicant**
on behalf of the **Respondent**

Hearing dates: 11-15 March 2024

Approved Judgment

This judgment was handed down in private remotely at 2pm on 4 June 2024. After an application on behalf of the mother, it was anonymised and published by circulation to the parties or their representatives by e-mail and by release to the National Archives at 10:30am on 2 July 2024.

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IMPORTANT NOTICE

In any report of the proceedings the children and the parents shall not be identified without the court's permission.

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MS JUSTICE HENKE

Ms Justice Henke :

1. Although this judgment is written in compartments and in a linear fashion, it is intended to be read as a whole.

Introduction and Background

2. I have before me cross applications under the Children Act 1989 made by the mother and the father of two children. The subject children are a boy who I will call D (not his true initial) who is 17 years of age and a girl, E (again, not her real initial), who is nearly 9 years old. Their parents separated as long ago as July 2019. Their marriage ended in a divorce, decree absolute being granted on 24 September 2019. The family finance proceedings were concluded in November 2022.
3. The proceedings before me are, on any view, old. In the bundle prepared for this hearing, the mother's earliest application is dated 14 October 2019. At the time, the children were living with their mother. She sought that their time with their father should be supervised. On the face of the application, the mother made allegations that the father was manipulating the children and trying to undermine her parenting. She alleged that that was having a detrimental effect on the children's psychological well-being and their behaviours. I reminded myself that at the time of the mother's application, D would have been 12 years old and E, 4 years old.
4. The orders made within the application begin with the First Hearing Dispute Resolution Appointment on 13 January 2020. I shall only mention within this judgment the orders pertinent to the issues I need to determine. Within that context I note that the order of 13 January 2020 provided for the father to have contact with the children each Saturday for at least 6 hours provided that contact was supervised by an Independent Social Worker ("ISW"). Over the months that followed, the days and times for contact changed but direct contact supervised by an ISW continued in some fashion although it was suspended on occasion. In particular, by the March 2020 lockdown and by court order in 2021.
5. The Deputy District Judge who heard the case on 13 January 2020, gave directions for a fact-finding hearing in the summer of 2020. However, that timetable could not be followed, primarily because of difficulties with obtaining disclosure from the police in relation to a parallel complaint the mother had made about the father. In addition, the local authority failed to follow court orders and the father says the mother kept asking for further time to finalise her statement. In July 2021, there was a hearing which was abandoned after the evidence had started. Contact between the father and the children was suspended at that time on the basis that the social worker had advised the court that the children needed a safe space with their therapist. This court has a letter from the therapist. That was not her advice. She advised that therapy would be offered whatever contact was in place and that the court should decide the issue of contact in

accordance with the children's best interests. Contact was restarted on a supervised basis.

6. The fact-finding hearing was listed afresh and heard before Recorder Moys over six days from 11-18 February 2022. By that time, the issues between the parties had widened and each party made allegations against the other. The father did not have contact with D or E after this hearing.
7. On 28 April 2022, Recorder Moys circulated her judgment in draft for anonymization. At the time of the hearing before Recorder Moys, both parties were represented by leading Counsel. Within her judgment, for the reasons she gave, Recorder Moys found the following: -
 - a. The mother seemed exhausted and broken by this case and (understandably) by the content of some of the allegations she had to describe and answer questions about. The Recorder's impression was that the mother's distress was genuine.
 - b. She found that the mother's recollection and perception of certain events involving the children had been heavily influenced by the father's behaviour towards her personally and by the effect of what the Recorder described as these distressing and protracted proceedings. The Recorder considered that the mother's allegations about the father's behaviour towards her were broadly accurate and truthful. However, the Recorder considered that the mother's fear of the father had led her to make assumptions in other contexts which were born out of her fear of him, but which did not warrant the interpretation the mother gave to them; for example, allegations of inappropriate comments by the father about E. The Recorder rejected the allegation that the father posed a sexual risk to E or that he treated the children like toys. She did not find the allegation that he performed trust exercises with the children proved.
 - c. The Recorder's distinct impression was that the father finds it very difficult when he is challenged about his ideas and beliefs, both generally and specifically when the honour of his family, as he sees it, is impugned.
 - d. The Recorder listened to an audio recording from 2015 in which she says the father repeatedly shouted at D in a loud and bellowing tone even though D is heard crying and becoming more and more distressed. The Recorder found that the recording showed an atmosphere of fear and uneasiness.
 - e. The Recorder found that the game where the father snapped his belt was likely to intimidate and frighten D, particularly when D was younger and that the father's ability to understand and meet the emotional needs of the children is

something which will require further consideration at the welfare stage and professional advice.

- f. She found that the father is capable of snapping and losing his temper in an explosive fashion.
- g. The father could be domineering and controlling of the mother and his children at home and the dynamic between the father and the mother was one in which the father was capable of losing his temper in an explosive and frightening way on occasion if he did not get what he wanted or if the mother did not conform to the father's expectations. The Recorder found that the father felt that the mother's role as a wife included a duty to keep him happy and this is why he was so incredulous that she called the police on him in 2015. She found that when challenged the father can become aggressive.
- h. The Recorder did not find the allegations that father controlled the mother financially proved but did find that there would have been times in the parental relationship when the mother's circumstances exacerbated the invidious effect on her of the father's domineering behaviour and aggression and reduced her ability to extricate herself from that behaviour. This would have had a particularly damaging emotional effect on the mother.
- i. The paternal grandmother and the father are more likely than not, in 2007 during D's birth, to have discussed the paternal grandmother's opinion about epidurals. That view was expressed with the best of intentions but was different from the mother's view and her wish for pain relief. The Recorder found that the father and the paternal grandmother did put some pressure on the midwife to listen to them rather than the mother who by then was in distress from a traumatic birth. The Recorder found that the father, aided by his own mother on this occasion was domineering and overbearing and that that resulted in emotional distress.
- j. The allegations of forced sexual intercourse within the parties' marriage were all proved. Those allegations included the following in 2015 - that the father sexually assaulting and raping the mother resulting in the conception of E, then again when she was 37 weeks pregnant, and again when E, then aged 2 months old, was in the room.
- k. The father reacted angrily to the mother when she questioned his mother's motives for asking for her money back and when she said she would not have the paternal grandmother in the home. This made the father extremely angry, and he physically assaulted her by twisting her arms and holding her in place by pushing his upper body against her knees and yelling in her face.

1. The father threatened the mother with a knife in July 2015, pressing the blade of a large kitchen knife into her hand.

8. Towards the conclusion of the judgment, the Recorder stated this:

“176. In view of the very serious findings I have made in respect of the abuse suffered by M, to which the children have been exposed, and of the pattern of domineering and controlling behaviour perpetrated by F, I decline (because it is disproportionate and unnecessary at this stage) to resolve further disputes regarding the collection of belongings from the family home and F’s later interactions with professionals. It also seems to me that issues regarding the appropriate way for F’s contact to progress (both direct and indirect) in order to ensure M and the children are kept safe, and that F is also able to meet the emotional needs of the children, are issues that require careful consideration in the welfare stage of proceedings, with the likely input of expert/Cafcass/ISW assessment.

Directions

177. In light of the findings I have made I will invite the parties to reflect and to discuss the way forward in terms of case management. At this stage I consider it would be helpful for F to be afforded a period of reflection to consider the findings I have made and thereafter to file a short statement setting out whether he accepts my findings, as this is likely to be relevant to the consideration of any risk assessment that may be required or of any work that it is proposed F undertake.

178. It would also be helpful for the parties to produce an agreed schedule of the findings I have made (and not made) in order to assist those working with the family.”

9. Despite the above, no Schedule of Findings has ever been agreed by the parties. The father says a fully anonymized judgment was circulated by the court on 14 July 2022. On behalf of the father, on 25 July 2022 an application was made to the Family Court to restore the case to court. As of 25 July 2022, the position appears to have been that the parties had agreed draft directions but could not agree interim contact. The father’s position was that he sought the continuation of direct contact supervised by an ISW. The mother’s position was that she wished to await the view of the local authority social worker and the outcome of a family assessment before making any decision on interim contact. At that time, both children were living with her and open to the local authority as Children in Need. CAMHS remained involved although D did not fully participate in the assessment or therapy.
10. The case was next referred to the court by an application dated 29 August 2023 but actually issued on 9 October 2023 on behalf of the mother. Within the application, it is stated that the court office had not acted on the application issued over a year

before. The mother sought directions and a final order regulating the contact and living arrangements. By the time of this application, the situation on the ground had changed. The mother and the children went on holiday in late May 2023, returning home on 1 June 2023. Two days later, on his sixteenth birthday, D moved to live with his father. His mother says he did so without discussing it with her. The father tells the court that D has told him that he kissed his mother goodbye and that she knew of D's intentions to see his father on his sixteenth birthday. D had not intended to stay overnight with his father, but his mother began threatening D with the police and D became frightened. Accordingly, it is said D decided to stay with his father. It appears common ground between the parties that the then social worker had discussed with D how he could move to live with his father when he was 16 years old, if that is what he wanted. In her statement in support of the application, the mother sets out how on 14 June 2023, D asked for some clothes and his passport in a WhatsApp message. She says that D threatened to call the police if she did not give him his passport number. His mother did as he asked. The father says that D visited his mother to celebrate her birthday on 5 July and that he, E, and the mother went out for a meal. The mother simply tells me that D returned to her home on 5 and 12 July 2023. She says that on the second occasion he accused her of stealing his money and called the police. D alleges his mother stole £1000 from him. His mother denies this and asserts that the father is behind this allegation. The mother details a third occasion when D returned home in September 2023. She says he tried to take items from her home. The police were called again.

11. In her statement in support of her application, the mother says that she is worried about D and his emotional well-being. She alleges D is at risk of harm in his father's care. The father says that since 10 September 2023, D has not wanted to visit his mother because of the way he says his mother behaves. It is alleged that on 10 September the mother locked D in her home to prevent him leaving.
12. Within her 2023 application, the mother sought a prohibited steps order to prevent the father enrolling D in a new school and taking unilateral decisions in relation to D. That application was listed before me on 13 November 2023. Since then, I have case-managed the matter towards a final hearing. I gave directions for the filing of evidence from the parties and from the social worker allocated to the children by the borough in which they live and by the therapist working with E. In the interim, D continued to live with his father. D did not want to see his mother and I did not make any direction to force the situation. E remained living with her mother and continued to have no direct or indirect contact with her father. By then, that had been the situation on the ground since the findings made by Recorder Moys.
13. The case came before me on 19 December 2023. At that hearing, the mother confirmed she was no longer seeking an order that D return to her care. Similarly, the father confirmed he agreed that E should live with her mother. In confirming where the children were to live, both parties were acting in a child-focused manner. I agreed

to make final lives-with orders which reflected the parties' agreement. D and E and their parents have thus had certainty about where the children are to live since then. It is hoped that this would, at least, enable the children to settle.

14. At that hearing on 19 December 2023, I decided that the issues that I would determine at the final hearing should be as follows: -
 - a. Whether there should be any contact, direct and/or indirect, between the father and his daughter E and if so, the nature of that contact;
 - b. Sibling contact between D and E; and
 - c. Whether the father's exercise of parental responsibility for E should be restricted.
15. Since then, the father has been put on notice that the mother is inviting the court to make s.91(14) order.
16. At the PTR on 13 February 2024, two further issues were set down to be heard by me, namely: -
 - a. whether D's passports should be returned to him or to his father, or should be continued to be held by third parties (namely the mother's solicitor), and what (if any) prohibited steps orders should be in place in relation to travel and attendance at the children's school; and
 - b. whether, in accordance with the father's then recent application, the case should be further adjourned for the instruction of a further ISW.

This Hearing

17. The final hearing came before me on 11 March 2024 with a time estimate of 5 days.
18. The father has represented himself before me. At the hearing on 19 December 2023, I ordered the appointment of a QLR to cross-examine the mother on his behalf. The court is grateful to Ms Ursula Rice who was appointed to act as the QLR. She put the father's case sensitively and carefully. The court is grateful to her for her assistance. The mother was represented before me, as she has been for the majority of this litigation, by Ms Markham KC.
19. I heard oral evidence from the mother, the father, the Team Manager for the allocated social workers (there has been more than one during this case) and the therapist. I also read a bundle of documents which ran to 451 pages. In addition, I had the bundle of

678 pages prepared for the fact-finding hearing before me because the father wished to refer me to certain documents within it.

20. I permitted the father to adduce video recordings of his video contact with the children and of him spending time with E. Both classes of video show an easy interaction between the father and E. Within the recordings, E can be heard asking to spend more time with her father. Even if the videos of the father with E were staged by him for evidential purposes, I do not detect E in any of the videos to be fearful or reticent in her relationship with her father. I take the view that whilst she may have been prompted to say what she did for evidential purpose, her observed interaction with her father to my mind demonstrates their relationship better than her spoken words. It appears to be a natural and unforced relationship. Of course, those videos are set in time. I remind myself of two factors when assessing them. Firstly, that time has moved on, and E now is said to express different views. Secondly, no-one ever takes videos of negative matters. They are but a snapshot of good times which must be weighed in the balance with all the evidence.
21. I have also listened to audio recordings of D speaking with social workers after he went to live with his father. I find that D I have heard within those recordings is confident in his interaction with the professionals. In those clips, recorded in July and August 2023, I find D's tone is on occasion bullish, domineering and controlling.

The Evidence and My Assessment of the Witnesses

The Father

22. The father gave his evidence first. He was respectful to the court and the process throughout. On occasions in his evidence, I consider that his focus was very much on the errors that the social workers and the therapist made when working on this case, rather than on the future welfare of the children in the circumstances they now find themselves. I accept that the evidence given to the court in 2021 caused the court to pause the children's contact with their father when there was no need to do so. I accept that the children and he were impacted by that suspension. I accept the father's point that E may have been influenced by the suspension of contact at that time, and I will factor that in when making my decision. However, (1) this case does not turn on that finding alone and (2) there were points in his evidence, and again in his closing submissions, when he seemed distracted by getting to the bottom of whether it was the therapist's advice or whether the social worker had got her advice wrong, to the detriment of considering issues more pertinent to his children's welfare.
23. The father has not appealed against the findings of Recorder Moys. However, it is clear that he does not accept her findings; indeed, he alleges bias and has provided this court with a careful analysis of why he says she reached the wrong conclusions. He vehemently denies that he is a rapist. He tells me he has admitted his past wrongs.

Indeed, he did so before Recorder Moys. However, her findings, wrongly in his view, went beyond his admissions.

24. The father considers that the allocated social workers in this case have been biased and have not communicated with him as they should. He did not accept the written evidence provided by social services or that of CAMHS. He does not accept that E has flashbacks to his behaviours when the family were together.
25. The father said in cross-examination that he was as surprised as anyone when D came to live with him. He denied being in clandestine contact with D and encouraging the move. He told me that since D has been living with him, D has made significant changes for the better. D, who previously did not attend school for about 3 years, now attended school. D was catching up on his lost education and excelling at certain subjects. The father said he had tried to engage with the mother to get D back into school and to discuss D's health, but he says she did not respond to his messages. D's weight, which had been a problem for him, has noticeably decreased and he had started sports and going to the gym. He had attended hospital and had been signed off by them. D had stopped smoking, no longer needed to access therapy and had been signed off by CAMHS. The father was understandably proud of the changes D had made to improve his life and told me that the changes were evidence of his parenting capacity. D can express his own views and is compassionate and caring. The father says that D tells him "*he feels free*" in his father's care, and "*I am respected here*".
26. D has had a new British passport and travel documents. D and the father have travelled together outside of the jurisdiction of this court in August and October 2023. They have no intention to flee the jurisdiction. D and the father's home is here. They have simply been on holiday. The father accepted in cross-examination that he had not told the mother that D had applied for a new passport – "*No. Why should I?*". Looking to the future, it was the father's evidence that D still needs his old passport back because it contains an entry visa for America. He told me D will also need his Iranian passport.
27. In relation to D going to live with the father, the father denied that he had undermined the mother. D had called the police on his own mother in June because that is what the police had previously advised he should do. In the past, the mother has called the police on D. The father was asked how he thought E felt when her brother called the police on their mother. His retort was – "*How did she feel when the mother called the police on her brother? ... It's a habit started by the mother*". The father denies that D has attacked, undermined, and belittled the mother because he is mimicking his father and the past behaviours he has observed. The father says D has told him that the mother favours E. He asserts that the mother has fabricated allegations about D's behaviour towards her and that D has questioned with him why she does this and has been deeply distressed by it. He complains that the professionals listen to the mother.

They do not ask D what actually happened – “*the social worker is supposed to be his adviser but he speaks to his abusers*”.

28. Very emotionally, the father described himself as a selfless father devoted to both his children. E, he tells me, needs a father. He loves her and wants to be a father to her. E is alone with the mother and likely to be influenced by her. He asserts that the mother has said horrid things about him to E. In any event, E is likely to pick up on her mother’s views even if they are not expressed directly to her. He would like E to spend every other weekend with him. He would like to “*flip*” Christmas and New Year with the mother. He could collect and return E to school. That way, the mother would not have to have contact with him. There should be no restrictions on D and E’s contact. They are siblings and need each other. They have a bond and have shared their lives and their experiences. He accepts that restoring contact between E and him will be a challenge, given the passage of time but he is convinced that once the ice is broken, the good memories will come back. In cross-examination he said that E had told D that she missed him and that she missed her father. He considers that E tells her mother that she does not want to see him because that is what her mother wants to hear, and she wishes to please her. He is fed up with the input of the local authority and CAMHS which he says has not been child focused and is destructive. However, he is willing to be assessed by an ISW. He told me that if E tells the ISW that she does not want to see him, he will respect that. Initially, he said he would not undergo a risk assessment but when Ms Markham KC returned to that issue later in her cross-examination, he said he would if that would assist contact restarting – “*I am all for risk assessment – voices of children to be heard*”.
29. The father told me he had been googling what a s.91(14) order was and that he would actually agree to a s.91(14) order if it was child-focused. Both parties are in his view exhausted by the process. The father told me that he has never interfered with E’s schooling and would not do so in the future. He trusts the mother with E and knows she loves E and will do the best she can for her. He has not interfered in any way with the mother’s care of E and decision-making for her in the last 4 years. He has not, he says, shown D any court documents. He denies weaponizing D in these proceedings.

The Mother

30. The mother is convinced that the father was behind D’s move to live with him and concerned that his father has manipulated him. She alleges that the father has prevented the allocated social worker from spending time alone with D since he went to live with his father. The mother would like E to have a relationship with D, but she is worried about the influence the father will have on E through D. The mother freely accepts in her statement to this court that she is struggling to cope with the weight of anxiety and fear that has been provoked by the father being back in the children’s lives.

31. In her oral evidence before me, the mother maintained her equilibrium in chief but on occasion became distressed, distraught, and verbose in cross-examination despite the measured and proper manner in which the questions were posed. As a witness, she struck me as worn down and exhausted by the process. I gained the impression she was frightened to tell things as they were for fear of diminishing her case. She was clearly frightened that she would lose E. When asked about E stating “*D went to live with Dad and Dad manipulated D*” when she did not know what manipulated meant, she denied that E had overheard adult conversations and was parroting them despite the obvious inference from the words that that is exactly what has happened.
32. The mother expressed how concerned she was for D. She is worried about his behavioural outbursts during which he is beyond control. She had seen him attack E. When she separated from the father, the mother says she saw the softer side of D. She had taken D to see a therapist, but the father objected. The children were then referred to CAHMS. When D left her care, he disengaged with therapy.
33. She does not want an order for contact between D and E because she fears that the father will manipulate D to influence E. D has attacked E in the past. The mother told me that she feared that if they had contact both D and E would be at risk of harm. D, she says, is a physical risk to E and there is a risk of emotional and psychological harm. E cannot forgive her brother for leaving her.
34. E is smart and very intelligent. She is good at school and analyses things. She wants to move on and wants the therapist she sees to help her mind move on. The mother is sure that E loves her father, but her safety comes first, and the mother does not want to jeopardise E’s mental health. The father will not change – “*The living evidence is D. He buried me for that child*”.
35. The mother told me that she needed a s.91(14) order because the father is putting her through these proceedings and stopping her moving on. E needs to move on. She has been in proceedings for a long time. The mother “*really needs to start healing*”.
36. The mother told me that she cannot discuss anything to do with E with the father. He will not agree with anything she says. It is her view that he thinks he is always right. He believes he is superior to her and the professionals. She told me that if she is required to have to agree with him on matters such as schooling that will put her in contact with her abuser. The father “*can control anyone. It’s his talent*”. I find the mother’s fear of the father is genuine and heartfelt. It is anxiety-provoking and the distress she expressed before me was real. Having heard her give evidence, I concluded that she did her best to tell me her perspective of events and how she perceives the future will pan out. I find that it is likely that those perceptions are coloured by her genuine fear of the father.

37. The Team Manager provided a statement to the court dated 8 December 2023. She confirmed that the children had been open to the local authority since 2019. Since the fact-finding hearing in 2022, they had continued to be regarded by the local authority as children in need of intervention. The children have experienced a number of changes of social workers. The social worker, MT, had observed warm interactions between D and the mother. Since the fact-finding, the focus of the social work intervention had been on getting D back into education and helping the children navigate the separation of their parents. Over the course of the “Child in Need” plan, her impression was that the father has consistently raised concerns about previous social work interventions which placed restriction on his contact with the children and actually caused it to be suspended in 2021. In November 2022, the Team Manager met with the father to discuss his concern about social care involvement and the lack of progress with contact between him and the children. The hope had been to improve the working relationship.
38. After D went to live with his father, the Team Manager explored with him whether he would return to his mother. It became clear that D wished to remain with his father. As a consequence of previous concerns, a strategy meeting had been held in July 2023, the outcome of which was to undertake a s.47 investigation to explore whether D living with his father would expose D to a risk of significant harm. The outcome was to try to engage with the father to ensure ongoing meaningful intervention and to support D. No other action was warranted.
39. She confirmed that as of 8 December 2023 the local authority’s plan was to:
- a. Get a better understanding of the father and the mother’s own experiences and how this affects how they build relationships and how they parent.
 - b. To explore a space for the family to express themselves and explore feelings safely.
 - c. To ensure D is living in a safe and stable environment.
 - d. For the children to have a good understanding of why their family circumstances are as they are.
 - e. Ensure that both children can access emotional support for their experiences.
40. By February 2024, the plan was to close the Child in Need Plan for D. It being accepted by the local authority by then that his father was meeting his basic needs. In the future, it was the local authority’s view that D’s school should be the lead professional for D. In relation to E, E is to be provided with EMDR and life story work will be completed with her by a social worker to complement the therapeutic

intervention. The social work evidence before me was that E needed help to understand why she was restricted in seeing her father and brother and give her meaningful insight into her experiences to date. She seems to be confused as to “*why things are the way they are*”. The plan presented to the court by the key worker at that date was that E should have tightly monitored contact, direct and indirect, with her father at a family centre by an ISW. When speaking to her key worker, E has said she feels “*weird*” when contacted by him and nervous about seeing him. The recommendation as of February 2024 was therefore that E’s voice should be championed, and she should be able to decide whether to speak to her father. Her wishes and feelings should be at the centre of adult decision-making. In terms of sibling contact, D wants to see his sister, but E has said she does not want to see him for fear of an incident occurring between them. The key worker’s recommendation was that if E wishes to see D, it should be in a community setting with clear rules and a safety plan in place. The problem with the recommendations I have just set out is that it appears to recommend supervised contact, but it is premised on E wanting contact, which at the moment she does not. Consequently, it appears to me to be a plan which if implemented would put additional pressure on E to champion one or other of her parents’ views.

41. The Team Manager produced a note of the then key worker’s visit with E on 16 February 2024. The note captures the mother’s distress and how the mother struggles to speak about many aspects of her lived experience. The social worker worried that E “*may not necessarily fully understand her mum’s struggles and may find the emotional vulnerability she experiences difficult to see*”. The case note summarises the life story work that had been conducted with E. It includes that E does not really want to see her father at the moment and is worried about seeing her brother.
42. The Team Manger was very effectively cross-examined on behalf of the mother by Ms Markham KC. The cross-examination concentrated on the local authority failing to conduct any risk assessment before making their recommendations for contact. It also explored the local authority’s proposal to remove itself from D’s case and to leave any intervention to the school. Ms Markham posed the question - how would they manage the risk in contact between D and E? There was no real answer to that. She was then asked – what if D is enmeshed with the father, have you assessed that risk? Again, there was no substantive answer. It was put to the Team Manager that there needed to be a risk assessment and a proper safety plan in place before any contact could proceed between the siblings or E and her father. It was asserted that the local authority’s work lacked depth. The Team Manager accepted the need for a risk assessment in this case and that that was a necessary precursor to any work taking place.
43. The father cross-examined the Team Manger. The focus of his cross-examination was his interaction with the social workers and his supervised contact with the children. The father put that the social workers always accept what the mother says and do not

listen to him. He wanted to know why they did not speak to him. He queried why they had not asked D about the alleged incidents of violence towards his mother and why they relied solely on what the mother said about those incidents. He asserted through questioning that the voice of the children had not been heard and stated, "*I am all for the risk assessment*". He asserted through his questioning as a litigant in person that E had been a victim of the July 2021 order which had suspended contact on the erroneous advice of the then social worker. The Team Manager dealt with the cross-examination courteously and professionally. She accepted that the then social worker appears to have acted on the advice of the therapist resulting in contact being suspended in July 2021. She did not accept the father's other criticisms.

44. The Team manager accepted that the recent case note of the social worker suggested E was being influenced by her mother (directly or indirectly). E had been reported to say "*D went to live with Dad and Dad manipulated D*". When the social worker explored that with D, it transpired that she did not know what manipulation meant. In her view, at the very least, E must have overheard adult conversations.
45. Under cross-examination by the father, it became apparent that the Team Manager had not read all the papers she should before entering the witness box. I therefore gave her time. Having read the notes from the contact supervised between the children and their father, her view was that they showed some nuanced concerns but overall, she agreed they were age appropriate and demonstrated a lot of good interaction between the father and the children. She caveated that answer by emphasising that contact was in a supervised setting. In her view, the father is competent in a controlled setting and navigates the evident sibling rivalry well. That however begs the question, how does he behave when not supervised?
46. I found the Team Manager to be an honest witness who acknowledged, where appropriate, the deficits in the local authority's working once they were put to her. In particular, she accepted that the local authority had not conducted a risk assessment based on the findings of fact and that they should have before making recommendations to this court about contact.
47. As I listened to the Team Manager's response to the father's cross examination, her exhaustion with the critical manner in which she says the father reacts to professionals on the ground was palpable. Although on her guard, she made concessions where appropriate. During the father's cross-examination of her it became evident that she was underprepared. She should have read the contact notes in full before entering the witness box; after all, this case centres around issues of contact. However, when given time to read, she did so diligently and re-entered the witness box to give a fair and reliable appraisal of the recordings which she placed in their context of their supervised setting.

48. The therapist has provided this court with a report dated 9 February 2024. In that, she clarified that in March 2023 D had been assessed by CAMHS and offered individual therapy to help him think about family relationships and how they affect his moods, sadness and his anxiety about going to school. He was also offered to restart a neurodevelopmental assessment. The mother said she would encourage D to take up the offers. D did not take up the offer and there was thus no CAMHS intervention with him.
49. In relation to E, she had been referred to CAMHS for trauma informed therapy. The school reported that E said she was experiencing distressing flashbacks which often occurred in lessons and inhibited her ability to concentrate. E is to receive EMDR. It will be time limited and targeted. It will be based on a life story book which the social worker will produce. It will include positive and difficult memories.
50. The therapist was cross-examined by Ms Markham KC on behalf of the mother. The cross-examination was based on the therapeutic records. The therapist confirmed her agreement with them and with her colleague's then assessments. The therapist's view was that D had been very confused living with his mother. He had split loyalties. He is likely to have been impacted by his father's behaviours towards his mother. She wondered if he felt that the father was alone, abandoned and thus whether D felt guilty. She accepted that there was a conflict in D's warm and loving relationship with his mother and then his violent outbursts towards her. Both children have been traumatized. In her view, D's presentation could be trauma-based. She told me that D may find it easier to just cut off and accept his father's mindset. She is not significantly concerned for D at the moment, but trauma can re-surface at any point in the future. She would like D to re-establish his relationship with his mother, but she does not know what support he would need. She does not know to what extent he has now developed his own mind. She was asked – "*is he too great a risk to mother and E?*"; answer – "*He is too much in his father's world*". In relation to E's contact with her father, she would be guided by E's wishes. E is currently saying she is afraid. The local authority should ideally continue their involvement. Now is not the time to withdraw but she sees their point. The children's respective homes are settled. They have been involved a long time and the case does not meet their threshold.
51. The father cross-examined the therapist. The focus of his cross-examination was the past and events when he considered he and the children had been done a disservice by the local authority and CAMHS. Of note in cross-examination, the therapist told the court that she had concerns about risk based on the findings of fact that had been made. However, because D was doing so well in his father's care, her concerns were slightly diminished. She can see the benefits to E of having her father in her life - that should not be written off, but at the moment the risks that arise from the findings of fact and E's current wishes and feelings mean that contact is not in E's best interests.

The therapist suggested that E should be given the space to process her feelings and make sense of her experiences.

52. I found the therapist to be a thoughtful and professional witness whose evidence I have no hesitation accepting. Her answers were child-focused and grounded in the reality of the facts of this case. I do not consider the father's criticisms of her to have been made out. She was not biased in the presentation of her evidence to this court. She was child-focused. Her role is not to act as an investigator. It is to react to facts presented to her and to give advice upon them. As she told the father in cross-examination, she does not make judgments, but she does give opinions. I accept that distinction.

The Parties' Positions in Closing

The Father

53. In the opening note drafted on behalf of the father by the QLR, the father's position was that since 2019, the two children at the centre of this application have been in litigation. They have had a procession of social workers, ISWs, contact centres & therapists, and lived in an environment where their parents are in perpetual legal confrontation. Somehow, no guardian has ever been appointed for them. The case has suffered from both Covid-19 and court pressure leading to hearings not being listed and the matter not being progressed.
54. It is 25 months since the father has seen or spoken with his daughter. It is just over five months since E saw her brother. Both children have both suffered emotional damage. D is overweight and his education has been undermined whilst in the care of his mother. The mother is reporting that E suffers traumatic flashbacks. Her education is progressing, but the father is concerned that all is not well, and she could be doing better.
55. In opening the father asked the court to consider:
- a. D is discharged from all "time spent" with orders, save that the mother shall return D's personal effects to him.
 - b. E spends time with the father and her brother in an unfettered natural manner as soon as possible. This should be on an alternative weekend basis, from Friday afternoon to Monday morning with the father dropping E to and from school.
 - c. E should spend half the holidays with her father and brother and gave specifics of the regime he considers should be ordered.
 - d. D's passport should be in the care of his father, E's passport should be in the care of her mother but provided to the father should he wish to travel abroad.

Both parents should give the other parent appropriate information and ensure that there is FaceTime contact with the other parent when they are away for long periods such as being on holiday.

- e. The father is aware that a s.91(14) order is sought by the mother. He has limited understanding of this order and is cautious in agreeing anything he is unsure of.

56. Broadly, the father's rationale for the above was that:

- a. D moving to his father has had an extremely positive income impact on him. He believes that his involvement in E's life would be equally beneficial to her.
- b. It is unusual that siblings should not live together, but the father accepts that it is in the best interests of both of the siblings that they do so. The father believes that E would be concerned for her mother's well-being, and unnecessarily distressed were she to live with him. He believes the current lives with orders are in the best interests of both children.
- c. The traditional "time spent with" arrangement that the father proposes, allows him to have a reasonable amount of input into E's schooling, and will allow her to maintain her relationship with her brother and her father in a natural manner.
- d. The voice of both children is hard to discern in much of the social work. Father will say D was exhausted and oppressed by the amount of social work and involvement of professionals in his life. An end to the litigation is imperative for these children.
- e. Both children have consistently and repeatedly expressed to those who are tasked with looking after their emotional welfare, that they wish to see their father. The father is concerned that E's reported flashbacks are increasing now D is not living with her. He believes normalisation and time will be the great healers for the children.
- f. The contact will balance the extremely negative and unjustified view the mother has of the father.
- g. Both children have a presumption of a right to a relationship, in the most natural way possible, with their parents.

57. In opening the question was posed on behalf of the father - can this contact be managed safely in the light of the findings of fact of Judge Moys' judgement in February 2022? The father submits that there are a number of factors that the court should consider when addressing that question:

- a. The mother has chosen to live less than 300 yards from father's house. This suggests that she is able to tolerate some proximity to him.
- b. Handovers can be managed away from the threshold of the parents' respective houses by using the school as a pickup drop off point, or a public place.
- c. The father has an understanding of his previously abusive behaviour, and accepts that he was by no means a perfect parent in the situation of the marriage.
- d. Perpetual supervised contact as recommended is not a long-term solution for these children.

58. In closing, the father wanted to make the majority of his submissions in writing. He told me he found that easier than addressing me orally at length. When acting for himself, he put his case as follows:

- a. He had been put at a disadvantage throughout these proceedings by the tactics of the mother's legal team who he says have been selective and partisan in the documents and evidence that they have sought to put before the court.
- b. The incompetent local authority and CAMHS have created a false picture which is not based on fact but is based on false assumptions and bias.
- c. The therapist's opinion has been informed by third party accounts which are not accurate. She has taken her account from the mother and the social worker and has formed judgment based upon them which are biased.
- d. The therapist has based her assessment of D on the mother's account of what has happened between them.
- e. The therapist is biased and only spoken to the mother. She has not spoken to the father nor D about significant events upon which she relies when formulating her opinions.
- f. The local authority has sidelined the father in their working of the case.
- g. Recorder Moys found that some of the mother's attitudes are tainted by her perception of the father and her past experiences. Her credibility and reliability as a historian of fact about him and D should, the father says, be the subject of professional curiosity. Her reliability should not be assumed. Recorder Moys had found that the mother's perception of the father had an almost "*paranoid quality to it*". There is a real risk the mother will manufacture stories to get her own way.

- h. The mother has struggled in her parental duty to support the children with their health, development, and education.
 - i. Four years prior to separation, he was the children's primary carer.
 - j. The significant positive change noted in D since he moved to live with the father is testament to the father's ability to parent.
59. Specifically in relation to E, he submits that there is *"no hard evidence to prevent granting a free, normal and unsupervised contact between father and daughter. There is no evidence or suggestion of ill-treatment or abuse whether physical or emotional"*. The video clips show a warm interaction built up through years of love and affection. E needs a father who is willing and wanting to support her and aid her development and who has shown commitment to her throughout these protracted proceedings which are over 4 years old. There is nothing to prevent E having contact with him other than the events of July 2021. He asks me to start a path to unrestricted contact with E. D and E should have unrestricted contact. They love each other and have a bond.
60. An ISW should be instructed to secure E's authentic voice rather than that tainted by the mother and heard by biased professionals.
61. Since the judgment of Recorder Moys, no professional has spoken with him and advised him what he needs to do to bring about change. He contacted UpLift himself and attended online sessions during the pandemic and attended two in-person courses in 2022. The mother has an issue with him rather than any risk he poses to the children. The mother is not afraid of the father as she alleges. She moved around the corner from the father of her own choice and actually recently bought it, having rented for a number of years. He has photographs of the mother coming to the father's house and banging and kicking his door. He has never retaliated, nor has he used the proximity of their homes to follow E or interfere with the lives of the children and the mother.
62. The father supplemented this written closing orally. He told me that he wanted to complement the mother's care of E, he does not want to be intrusive or intervene. He does not intend to undermine her care of E or her exercise of parental responsibility for E. All he wants, he told me, was to be informed. He considers that an ISW should be instructed to listen to E's authentic voice. He agrees that there should be a risk assessment and will submit to it.
63. I have listened to what the father said, and I have read what has been written on his behalf and that which he has written himself. I consider that his own written submissions capture the way he views this case accurately. They highlight all that is

positive in the father, but they also demonstrate, in their tone and their content, his lack of insight into his behaviours and their impact on others. They demonstrate his inability to accept responsibility for the impact of his past actions. In my view, they demonstrate the father deflecting rather than reflecting.

The Mother

64. The mother's case in closing remained largely as it was in opening.
65. The mother does not support any contact between E and her father, save for limited indirect contact in the form of letters and cards and, if considered safe, small gifts at Christmas and Birthdays. The mother will use a PO box for indirect contact. She will review direct contact with professionals and E's school and take into account E's wishes and feelings over time and after the current therapeutic work has concluded.
66. On behalf of the mother, it was submitted that there is no purpose in a risk assessment now. The father's view is fixed. He does not accept the findings made against him. He continues in his written evidence to belittle and demean the mother. There is no need to adjourn for a risk assessment. The court can make its own assessment of risk on the findings of Recorder Moys. If there was a risk assessment, the case would have to be adjourned for that to happen. That begs the question, until when. This case needs finality. There is a likelihood that the mother will be re-triggered and further traumatized by these proceedings being adjourned to another hearing.
67. The mother seeks a declaration/specific issue order that she may take necessary decisions relating to E's health and education without consulting the father (and/or a prohibited steps order preventing the father exercising his parental responsibility in relation to those matters). She is aware that the father will have limited updates about E's education in the form of her school reports but seeks an order that neither he nor D attend the school or any school that D may attend. The mother seeks an order that her communications with E's school shall not be shared with the father. The mother submits in closing that the fact that the father accepts before this court that he need not be consulted does not fit with his controlling and coercive behaviours in the past. There is a real risk that once these proceedings are over the father will start to intervene.
68. The mother seeks that be a prohibited steps order preventing the father removing E from the jurisdiction until she is 18 years old and a similar prohibition in relation to D.
69. The mother lives just 5 minutes from the father (7 minutes on foot). The mother and E may move home in the near future. The mother seeks permission to withhold that address from the father and orders that the school and any health professionals shall not disclose that address to the father or D.

70. The mother believes D was indoctrinated by the father and poses a risk to her and E. It is submitted on her behalf that there should be no contact between D and E unless supported by the local authority and then it should only take place if it can be safely managed.
71. The mother seeks a s.91(14) order of unspecified duration, presumably until the children each reach their majority.
72. The mother has cancelled D's old British passport. She has not found his Iranian passport but, if she does, he can have it.

The Law

73. I now turn to consider the law I must apply to the facts of this case.
74. I have not been asked to make any specific findings in this case. Where, however, I have considered it necessary make findings I have clearly stated that I have done so, giving my brief reasons as necessary. When I have made such findings, either in the paragraphs above or below this segment of the judgment, I have reminded myself that the burden of proof rests on the shoulders of the party who asserts the fact and that the standard of proof is the balance of probabilities.
75. When determining the Children Act 1989 applications before me, the children's welfare is my paramount consideration. I must apply the welfare checklist in s.1(3) Children Act 1989. I must not make any order unless I consider that doing so would be better for the children than making no order.
76. In the context of the decision that I have to make, I particularly note and bear in mind that s.1(2A) of the CA 1989 provides as follows:

“A court, in circumstances mentioned in subsection (4)(a) or (7), is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare.”
77. When assessing whether the contrary is shown for the purposes of s.1(2A) of the CA 1989, I have reminded myself of what MacDonald J said in *D v E (by her Children's Guardian)* [2021] EWFC 37. Accordingly, I bear in mind:

“that the courts have, historically, held that it is almost always in the interest of a child whose parents are separated that he or she should have contact with the parent with whom he or she is not living. This principle, and the following further applicable principles can be drawn from the decisions of the Court of Appeal in Re C (Direct Contact: Suspension) [2011] 2 FLR 912 at [47], Re W (Direct Contact) [2103] 1 FLR 494 and Re J-M (A Child) [2014] EWCA Civ 434 at [25]:

- i. The welfare of the child is paramount, and the child's best interests must take precedence over any other consideration.*
- ii. There is a positive obligation on the State and therefore on the judge to take measures to promote contact, grappling with all available alternatives and taking all necessary steps that can reasonably be demanded, before abandoning hope of achieving contact.*
- iii. However, the positive obligation on the State, and therefore on the court, is not absolute. Whilst authorities must do their utmost to facilitate the co-operation and understanding of all concerned, any obligation to apply coercion in this area must be limited since the interests, as well as the rights and freedoms of all concerned must be taken into account and, more particularly, so must the best interests of the child.*
- iv. Excessive weight should not be accorded to short term problems and the court should take a medium- and long-term view.*
- v. Contact should be terminated only in exceptional circumstances where there are cogent reasons for doing so, as a last resort, when there is no alternative, and only if contact will be detrimental to the child's welfare. The key question, and the question requiring stricter scrutiny, is whether the court has taken all necessary steps to facilitate contact as can reasonably be demanded in the circumstances of the particular case.*

[26]. These principles must be read in light of FPR 2010 PD12J, entitled Child Arrangements and Contact Orders: Domestic Abuse and Harm”

78. I consider that the findings made by Recorder Moys bring this case well and truly within the scope of FPR 2010, PD12J. The mother is clearly a victim of domestic abuse having suffered physically and sexually abusive behaviours as well as controlling and coercive behaviours within the definition of paragraph 2 of the Practice Direction. The children are, within the meaning of paragraph 3 of FPR 2010, PD12J the victims of that abuse. On the basis of the findings, the father has been the perpetrator of that abuse. It thus seems to me to be appropriate that before proceeding any further, I should set out some of the salient paragraphs of FPR 2010 PD12J in this judgment.

79. I begin by reminding myself that as a matter of general principles paragraph 4 of the practice direction states that :

“4. Domestic abuse is harmful to children, and/or puts children at risk of harm, including where they are victims of domestic abuse for example by witnessing one of their parents being violent or abusive to the other parent, or living in a home in which domestic abuse is perpetrated (even if the child is too young to be conscious of the behaviour). Children may suffer direct physical, psychological and/or emotional harm from living with and being victims of domestic abuse, and may also suffer harm indirectly where the domestic abuse impairs the parenting capacity of either or both of their parents.”

80. I then turn to Paragraphs 7 of FPR 2010 PD12J which states that :

“7. In proceedings relating to a child arrangements order, the court presumes that the involvement of a parent in a child’s life will further the child’s welfare, unless there is evidence to the contrary. The court must in every case consider carefully whether the statutory presumption applies, having particular regard to any allegation or admission of harm by domestic abuse to the child or parent or any evidence indicating such harm or risk of harm.”

81. I also take into account paragraphs 35-37 of FPR PD12J which state:

“35. When deciding the issue of child arrangements the court should ensure that any order for contact will not expose the child to an unmanageable risk of harm and will be in the best interests of the child.

36 (1) In the light of-

(a) any findings of fact,

(b) admissions; or

(c) domestic abuse having otherwise been established,

the court should apply the individual matters in the welfare checklist with reference to the domestic abuse which has occurred and any expert risk assessment obtained.

(2) In particular, the court should in every case consider any harm-

(a) which the child as a victim of domestic abuse, and the parent with whom the child is living, has suffered as a consequence of that domestic abuse; and

(b) which the child and the parent with whom the child is living is at risk of suffering, if a child arrangements order is made.

(3) The court should make an order for contact only if it is satisfied-

(a) that the physical and emotional safety of the child and the parent with whom the child is living can, as far as possible, be secured before, during and after contact; and

(b) that the parent with whom the child is living will not be subjected to further domestic abuse by the other parent.

37. In every case where a finding or admission of domestic abuse is made, or where domestic abuse is otherwise established, the court should consider the conduct of both parents towards each other and towards the child and the impact of the same. In particular, the court should consider –

(a) the effect of the domestic abuse on the child and on the arrangements for where the child is living;

(b) the effect of the domestic abuse on the child and its effect on the child's relationship with the parents;

(c) whether the parent is motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent;

(d) the likely behaviour during contact of the parent against whom findings are made and its effect on the child; and

(e) the capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse.”

82. I have reminded myself that paragraph 38 of the Practice Direction which states:-

“Where any domestic abuse has occurred but the court, having considered any expert risk assessment and having applied the welfare checklist, nonetheless considers that direct contact is safe and beneficial for the child, the court should consider what, if any, directions or conditions are required to enable the order to be carried into effect and in particular should consider –

(a) whether or not contact should be supervised, and if so, where and by whom;

(b) whether to impose any conditions to be complied with by the party in whose favour the order for contact has been made and if so, the nature of those conditions, for example by way of seeking intervention (subject to any necessary consent);

(c) whether such contact should be for a specified period or should contain provisions which are to have effect for a specified period; and

(d) whether it will be necessary, in the child's best interests, to review the operation of the order; if so the court should set a date for the review consistent with the timetable for the child, and must give directions to ensure that at the review the court has full information about the operation of the order.

Where a risk assessment has concluded that a parent poses a risk to a child or to the other parent, contact via a supported contact centre, or contact supervised by a parent or relative, is not appropriate.”

83. Lastly in relation to FPR PD12J, I take into account the guidance set out paragraph 4A which states:

“4A.1 Under section 91(14) of the 1989 Act orders are available to prevent a person from making an application under that Act without leave of the court. Section 91(14) leaves a discretion to the court to determine the circumstances in which an order should be made, which may therefore be many and varied. However, section 91A specifies certain circumstances “among others” in which the court may make an order. These circumstances include where an application would put the child concerned, or another individual at risk of harm. This would include, but not be limited to, a risk of harm arising where an application could be used to carry out or continue domestic abuse. A future application could be part of a pattern of coercive or controlling behaviour or other domestic abuse toward the victim, such that a section 91(14) order is merited due to the risk of harm to the child or other individual.

4A.2 Where allegations of domestic abuse are alleged or proven, the court should consider whether a section 91(14) order might be appropriate even if an application for such an order has not been made.”

84. In this case an application has been made for an order under ss.91(14) and 91A of the Children Act 1989 prohibiting the father from making any further applications in relation D and E under the Children Act 1989 without the prior permission of the court.

85. Accordingly, I have reminded myself that s.91(14) states:

“On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.”

86. Further provision about the making of orders under s.91(14) is contained in s.91A Children Act 1989. Section 91A(2) of the Children Act 1989 contains the circumstances in which a court may make an order under s.91(14). They include, among others:

“where the court is satisfied that the making of an application for an order under this Act of a specified kind by any person who is to be named in the section 91(14) order would put—

(a) the child concerned, or

(b) another individual (“the relevant individual”), at risk of harm.”

Section 91A(3) specifically states that “harm” in this section is to be read as a reference to ill-treatment or the impairment of physical or mental health.

87. In July 2022, FPR 2010 PD12Q came into force. It sets out under paragraph 2 the key principles to be applied when making s.91(14) orders. They are:

“2.1 Section 91(14) orders are available to prevent a person from making future applications under the 1989 Act without leave of the court. They are a protective filter made by the court, in the interests of children.

2.2 The court has a discretion to determine the circumstances in which an order would be appropriate. These circumstances may be many and varied. They include circumstances where an application would put the child concerned, or another individual, at risk of harm (as provided in section 91A), such as psychological or emotional harm. The welfare of the child is paramount.

2.3 These circumstances can also include where one party has made repeated and unreasonable applications; where a period of respite is needed following litigation; where a period of time is needed for certain actions to be taken for the protection of the child or other person; or where a person’s conduct overall is such that an order is merited to protect the welfare of the child directly, or indirectly due to damaging effects on a parent carer. Such conduct could include harassment, or other oppressive or distressing behaviour beyond or within the proceedings including via social media and e-mail, and via third parties. Such conduct might also constitute domestic abuse.

2.4 A future application could also be part of a pattern of coercive or controlling behaviour or other domestic abuse toward the victim, such that a section 91(14) order is also merited due to the risk of harm to the child or other individual.

2.5 There is no definition in section 91A of who the other individual could be that could be put at risk of harm. However, it is most likely to be, but is not limited to, another person who has parental responsibility for the child and/or is living with or has contact with the child, or any other individual who would be a prospective respondent to a future application.

2.6 In proceedings in which domestic abuse is alleged or proven, or in which there are allegations or evidence of other harm to a child or other individual, the court should give early and ongoing consideration to whether it would be appropriate to make a section 91(14) order on disposal of the application, even if an application for such an order has not been made (since the court may make an order of its own motion – see section 91A(5)).

2.7 Section 91(14) orders are a protective filter – not a bar on applications – and there is considerable scope for their use in appropriate cases. Proceedings under the 1989 Act should not be used as a means of harassment or coercive control, or further abuse against a victim of domestic abuse or other person, and the court

should therefore give due consideration to whether a future application would have such an impact.

2.8 The court should consider case law for further guidance and relevant principles, bearing in mind Parliament's insertion via the 2021 Act of section 91A into the 1989 Act."

88. Paragraph 3 of PD12Q deals with the procedure to be adopted by the court when considering making a s.91(14) order. It is relevant to note within this judgment that: -

"3.6 If the court decides to make a section 91(14) order, the court should give consideration as to the following matters:

- a. the duration of the order (see section 4);*
- b. whether the order should cover all or only certain types of application under the 1989 Act;*
- c. whether service of any subsequent application for leave should be prohibited until the court has made an initial determination of the merits of such an application (see section 6). Such an order delaying service would help to ensure that the very harm or other protective function that the order is intended to address, is not undermined; and*
- d. whether upon any subsequent application for leave, the court should make an initial determination of the merits of the application without an oral hearing (see section 6)."*

89. As heralded above, the duration of any s.91(14) order is considered in paragraph 4 of FPR 2010 PD12 Q which states:

"4.1 Sections 91(14) and 91A are silent on the duration of a section 91(14) order. The court therefore has a discretion as to the appropriate duration of the order. Any time limit imposed should be proportionate to the harm it is seeking to avoid. If the court decides to make a section 91(14) order, the court should explain its reasons for the duration ordered."

90. PD12J paragraph 2.8 reminds the court to consider case law for further guidance and relevant principles, bearing in mind Parliament's insertion via the 2021 Act of s.91A into the 1989 Act. Accordingly, I now turn to consider the relevant case law.

91. The leading modern authority is the Court of Appeal's decision in *Re A (A Child) (Supervised Contact) (Section 91(14) Children Act 1989 Orders)* [2021] EWCA Civ.

92. The lead judgment in *Re A* was given by King LJ. At paragraph 32 King LJ repeated the classic statement of the legal principles at play when making a s.91(14) order as out by Butler-Sloss LJ in the form of guidelines in *Re P (Section 91(14) (Guidelines) (residence) and Religious Heritage) sub nom: In Re P (A Minor) (Residence Order: Child's Welfare)* [2000] Fam 15; [1999] 2 FLR 573 at p.19, before proceeding to place the *Re P* guidelines into a modern context and to consider how the provision in

section 67 of the Domestic Abuse Act 2021 may impact upon the guidelines when that section to be brought into force.

93. The guidelines in *Re P* are as follows:

“(1) Section 91(14) of the Act of 1989 should be read in conjunction with section 1(1), which makes the welfare of the child the paramount consideration.

(2) The power to restrict applications to the court is discretionary and in the exercise of its discretion the court must weigh in the balance all the relevant circumstances.

(3) An important consideration is that to impose a restriction is a statutory intrusion into the right of a party to bring proceedings before the court and to be heard in matters affecting his/her child.

(4) The power is therefore to be used with great care and sparingly, the exception and not the rule.

(5) It is generally to be seen as a useful weapon of last resort in cases of repeated and unreasonable applications.

(6) In suitable circumstances (and on clear evidence), a court may impose the leave restriction in cases where the welfare of the child requires it, although there is no past history of making unreasonable applications.

(7) In cases under paragraph 6 above, the court will need to be satisfied first that the facts go beyond the commonly encountered need for a time to settle to a regime ordered by the court and the all too common situation where there is animosity between the adults in dispute or between the local authority and the family and secondly that there is a serious risk that, without the imposition of the restriction, the child or the primary carers will be subject to unacceptable strain.

(8) A court may impose the restriction on making applications in the absence of a request from any of the parties, subject, of course, to the rules of natural justice such as an opportunity for the parties to be heard on the point.

(9) A restriction may be imposed with or without limitation of time.

(10) The degree of restriction should be proportionate to the harm it is intended to avoid. Therefore the court imposing the restriction should carefully consider the extent of the restriction to be imposed and specify, where appropriate, the type of application to be restrained and the duration of the order.”

94. The modern context in which King LJ considered s.91(14) is set out in paragraphs 34-36 of her judgment. The modern legal landscape includes the advent of the smart phone and social media and the almost universal use of email as a means of instant communication. Another development considered of relevance by King LJ is the withdrawal of legal aid in the majority of private law cases leaving litigants

unrepresented without the steadying influence of legal advisers. According to King LJ, one of the consequences of these changes not uncommonly seen in private law proceedings is that the other parties, and often the judge him or herself, can be (and often are) bombarded with emails from a parent, whether male or female, who is representing him or herself. Such behaviour may be the result of anxiety but in other cases, as in the case before King LJ, it is part of a campaign of behaviour by one parent against the other which amounts to a deeply disturbing form of oppressive behaviour on their part.

95. In anticipation of s.67 of the Domestic Abuse Act 2021 which came into force after Re A and which brought into force s.91A Children Act 1989, King LJ stated at paragraphs 45-46 of her judgment.

“45. It is not for this court to presume to interpret or to purport to provide a commentary upon a section in an Act which is not yet in force and in respect of which statutory guidance has yet to be published. It is worth however noting that the proposed new section 91A dovetails with the modern approach which I suggest should be taken to the making of s91(14) orders. In particular the provision at section 91A(2) , if brought into effect, gives statutory effect to Guideline 6 of Re P (see para 39 above) by permitting a s91(14) order to be made where the making of an application under the Children Act 1989 would put the parent or child at risk of physical or emotional harm.

46. Under section 91A(4) when considering whether to grant leave the court will consider whether there has been a material change of circumstances. Again, this would put the current approach to the granting of leave on a statutory footing.”

96. I also have before me applications to restrict the father’s exercise of parental responsibility in relation to E. I have therefore considered the case law pertinent to that issue. I have begun by reminding myself of In Re C (Due Process) [2014] 1 FLR 1239, CA, in which Ryder LJ emphasized that a prohibited steps order is a statutory restriction on a parent’s exercise of their parental responsibility for a child and can have profound consequences. It is not a reflection of any power in one parent to restrict the other (which power does not exist), it is a court order that must be based on objective evidence. It can only be relaxed by the court and not by agreement between the parties. Accordingly, there is a high responsibility on the court not to impose such a restriction without good cause and the reason must be given. Furthermore, where a prohibited steps order is appropriate, consideration should also be given to the duration of that prohibition and the finite nature of the order must be expressed on the face of the order (R (Casey) v Restormel Borough Council [2007] EWHC 2554 (Admin), at [38]).

97. In *Re B and Another (Change of Names: Parental Responsibility: Evidence)* [2018] 1 FLR 1471, FD, (para 40) Mr Justice Cobb summarised the following principles from the decision in *Re D (Withdrawal of Parental Responsibility)* [2014] EWCA Civ 315:

“i. Parental responsibility “is an important status which is an incident of the family and private lives of the adults and child concerned and which is reflected in the way in which parents should exercise their responsibilities for their child. It should be rare for a father not to be afforded this status” (citing Re M (Parental Responsibility Order) [2013] EWCA Civ 969, [2014] 1 FLR, at para [14]);

ii. Parental responsibility describes an adult's responsibility to secure the welfare of their child which is to be exercised for the benefit of the child not the adult (at [2015] 1 FLR 166 [11]);

iii. When considering whether to limit or restrict parental responsibility, the court is considering a question with respect to the upbringing of a child, and the paramountcy principle in section 1 CA 1989 applies (see [12])”

98. Given the applications in this case are for prohibited steps and specific issue orders, both s.8 orders, I consider that the s.1(3) checklist does apply to the determination I have to make.

99. Ms Markham KC has cited to me Mr Justice Hayden’s judgment *F v M* [2023] EWFC 5 wherein he found that:

*“the contemplated protection [of restricting parental responsibility] for the applicant parent and children is to be found in the regime of Prohibited Steps Orders and Specific Issue Orders which the Children Act affords. Thus, whilst the legal status of a married father remains intact, it can be stripped of any potency to reach into the lives of the mother and children. His ability adversely to affect the welfare of either may be effectively prevented. This was the approach endorsed by Sir Andrew McFarlane P in *Sheikh Mohammed v Princess Haya* [2021] EWHC 3480 (Fam). “*

100. I am also asked to restrict the father’s ability to obtain and receive information from health authorities and educational authorities. In that regard I have considered *Re A & B (Children: Restrictions on Parental Responsibility: Radicalisation and Extremism)* [2016] 2 FLR 977, FD:

“[145] M has made an application under s 8 of the CA for specific issue and prohibited steps orders preventing F from accessing any information from schools or health services; the effect of these orders would be to fundamentally curtail F in exercising his parental responsibility. Although this would be an unusual step for the court it is not unknown, when such orders are made to

safeguard the child's welfare. I have been referred to the line of authorities in which the termination of parental responsibility was considered; these include Re P (Terminating parental responsibility) [1995] 1 FLR 1048 and CW v SG [2013] EWHC 854 (Fam) , and the decision in the High Court of Mr Justice Wood, A v D (Parental Responsibility) [2013] EWHC 2963 where he followed the approach taken in both of the earlier cases and terminated the father's parental responsibility in a case where father was serving a lengthy prison sentence for grievous bodily harm committed against the child's mother. In that case it was decided that to leave the father as a joint holder of parental responsibility would leave the mother in an intolerable situation and would lead to profound instability for the child. Furthermore, the father, who had failed to express any interest in the child and had shown a lack of commitment, was considered to be principally interested in controlling the mother.

[146] In the instant case, as in any when determining whether or not to terminate parental responsibility, the welfare of the child is the court's paramount consideration, and I keep in mind that such a step should only be undertaken with caution, and only where the welfare of the child requires it. I have reminded myself of the words of Lord Justice FitzGibbon in Re O'Hara as cited in Re KD (A Minor) (Ward: Termination of Access) [1988] AC 806 to which I have been referred.

[147] The guardian supports M's application as she believes that to do otherwise would enable F to jeopardise the safety, security and stability of the children. It is her view, and one that I share, that to allow F to access health and educational information would inevitably lead to F finding out where the children and M were living. F has already demonstrated what he is likely to do once he has such information. I conclude, on the evidence and facts of this case, that to share information about the children's GP or schooling with F will not promote the children's welfare in any sense. Not only has F already shown how he would use the information to the detriment of the children and their mother, the pernicious effects on M, of the knowledge that F has information that may lead to F locating the family, are already apparent in the way that the family's lives are circumscribed. Any obligation on school or GP or local authority or agency to share information with F in the future would deeply affect and undermine the children's mother's ability to put down healthy roots in a community and establish a level of security and consistency in their schooling and in the provision of health services for the children, because of her well-founded fears. This conclusion concurs with the guardian's views and as she recommends, I shall make the orders sought."

101. In addition, when making my determinations I have had regard to the Art 6 and Art 8 rights of the children and both of their parents. I have reminded myself that where there is a tension between the Art 8 rights of the children on the one hand and the Art 8 rights of one or other of their parents, the Art 8 rights of the child prevail - *Yousef v The Netherlands* [2003] 1FLR 210.

My Considerations and My Decisions

102. I begin my considerations with the father's application for an adjournment for an ISW report. The father wishes the instructed ISW to capture E's authentic voice. He accepts that the ISW could also conduct the risk assessment. Accordingly, I have asked myself whether I need such an assessment to address the issues before me. I have concluded that I do not.
103. I deprecate the local authority's failure in this case to analyze risk before making a recommendation about contact in this case. However, I consider that this court can fill that void. I have before me the findings of Recorder Moys and significant evidence of what has happened since then. I can and do when balancing the factors make my own assessment of the risks in this case. Assessing risk is what courts do all the time before coming to a decision. I do not need a social worker to conduct the task for me. Indeed, even if the key worker had conducted the risk analysis that they ought in this case, I would have proceeded to make my own assessment. The ultimate arbiter of risk is me.
104. I have then asked myself do I need an ISW to speak to E to capture her true voice. I have concluded that I do not. I reject the father's allegations that the social workers in this case and the therapist are biased against him. I have, in the papers before me and in the video clips the father has provided a number of snapshots of what E has thought at any particular time. I accept that she has previously said she wants contact. E's view, like any other person, is impacted by the context in which she expresses it and by her understanding at that time. I factor into my assessment of what E has said most recently, that she is likely to have been influenced by the environment in which she lives. I do not consider it likely that those with whom she lives have deliberately set out to influence E and her views on contact. However, as I have already set out, E used the word manipulated when speaking to the social worker without knowing what that word meant. I infer from that and consider it likely that she has picked up on adult conversations around her. She lives with her mother who is visibly distressed at the prospect of contact between E and her father, and E and D. E's maternal aunt also lives with them. Although I have not heard from her, it would be human nature in a case such as this for the mother and her sister to discuss it terms which are negative of the father. They will not have done it knowingly, but E is in the household, and she is likely to have picked up on their views. Another professional speaking to E is likely to capture the same view for the simple reason E will, by agreement, continue to live with her mother because that is in her welfare interests. Any desire to please her mother or any indirect influence of E will not be diminished by a different professional speaking to E. The short point is that I have E's view and I can decide what weight to attach to it and then proceed to weigh it in the balance, as I have just done, without an ISW speaking to E further.
105. The father tells me that he would accept E's view, whatever it may be, if it was expressed to an ISW. I do not agree. I find that if E expressed a view contrary to his

case, he would reject it. I find he has unjustly accused other professionals of bias. I find that if the ISW did not provide the evidence he seeks, he would, given past form, criticize the competence and independence of that professional. There would be no finality. Delay would be occasioned in securing an assessment I do not need. Consequently, I have decided not to adjourn the case for the assessment requested.

106. I now turn to the substantive decisions I have made and give my reasons.
107. I do not consider that I need to make any findings of fact in relation to the altercations between D and his mother or D and E other than to record that it is admitted that they occurred. It seems to me it does not matter who called the police or who started the argument, the fact that they occurred at all is sufficient. I find as a fact, based on and limited to those admissions, that those altercations did occur.
108. I also factor into my consideration that both children dearly love their parents and that their parents dearly love them. That is an important consideration, but it is not determinative of my considerations or my conclusions.
109. In reaching my conclusions I have treated each child as the individual that they are. I have had their individual welfare as my paramount consideration. I begin with E.
110. E currently does not want to see her father or her brother. She is frightened. I accept that has not always been the case and that in the past she has enjoyed a good relationship with both. I accept that in the videos, she asks to spend more time with her father, and I have made my analysis of that above. Within the course of these proceedings, she has wanted to see him as recently as November 2023. However, the evidence I have is that she does not want to see either her father or her brother now. I accept that she is having flashbacks to a time when her father lived at home with her. I do not consider that is manufactured evidence fabricated by the mother.
111. E's wishes and feelings are to be considered in the light of her age and understanding. Her understanding will be coloured by her past lived experiences and the environment in which she lives. I have already found that she is likely to have been affected by what she has picked up in the environment in which she now lives. I find that E does hold the view that she expressed in February 2024. I find, as the therapist told me, that E needs time and space to process all that has happened to her.
112. The mother's visible distress and anxiety in this case is real. It is not manufactured. I find that it is direct consequence of the father's behaviours towards the mother about which Recorder Moys made findings. The mother's perception of the father is born of his treatment of her. It colours her view of contact between E and the father and D and E. I take it into account when deciding what weight to give to E's views. However, I also factor in that it is agreed that E should live with her

mother. I do so not because I rubber stamp the parties' agreement but because it is plainly in her best interests to do so. The father himself acknowledges that. He is right to do so. The mother and the home that E shares with her provides E with the stability and security she needs. That stability and security should not be undermined. However, it is not a perfect environment for E. It means that E will be living with her mother who is visibly impacted by the father's past treatment of her and holds negative views about the father.

113. I accept the father's submission that E needs a father and that he is committed to playing a role in E's life. He has never directly harmed E and there has been value in their past contact. I accept that for E to have no contact with her father means that she will not have the benefit of her interaction with him. That will be to expose her to a risk of emotional harm. That risk of harm is exacerbated by the mother's negative view of the father to which contact with him would provide some balance. However, I also factor in the risk of harm to which E would be exposed if contact was promoted when she currently does not want it and when she lives with a mother so adamantly opposed to it. Promoting contact in those circumstances is to risk exposing E to increased conflict and stress when what she needs is a period of calm in which to process all that has happened to her and her family dynamics.
114. I also factor in the risk of emotional and psychological harm to E that emanates from the father. The father is dominant. He has his own way of doing things. His behaviour has, I find, impacted on D. The audio recordings that I have been asked to listen to by the father are, I find, strong evidence of the influence the father has had on D's behaviour. Within those recordings D is dominant, demanding, and insistent with the professionals. He pursues the argument for the sake of pursuing the argument. As I listened to the recordings, I was struck by how D's manner echoed that of his father. The recordings demonstrate the influence the father has and the effect it has had on D. I accept that if E is exposed to her father there is a very real risk that she too will come to echo her father in his interaction with professionals.
115. Of course, the father's influence over D has not been entirely negative. Indeed, I factor in that since D has moved to live with his father, he has metamorphized. D has made significant changes to his physical health and is now excelling in education. I find that father has provided him with self-confidence and discipline. That has benefitted D and would benefit E if she had contact with him. In many ways, but not all ways, the father is a very capable parent.
116. I have to balance the benefits of contact with her father for E against the detriment. When I conduct the balance on the facts as I find them to be, I agree with the therapist that it is not in E's current best interests to have direct contact with her father. I consider that to promote direct contact with her father for E at the moment would be to put E even more prominently in the centre of the conflict between the mother and the father. I do not consider that to be in her best interests.

117. The father has said to this court that the findings of Recorder Moys relate to historic matters. There have been no allegations about him for over 4 years. He has not sought the mother out and he has been respectful of her decision-making. He points to matters, set out in the opening note on his behalf, the matters which suggest the mother is not physically scared of him. However, I find that this is not a case about the mother being physically frightened of the father, it is a case of the mother being deeply impacted by his past behaviours on an emotional and psychological level. I do not use the word 'traumatised' lightly. I have reminded myself that I am not a psychiatrist or psychologist and I have no evidence of that kind about the mother before me. However, from a lay perspective as I watched her give evidence and I watched her listening to the other evidence her distress was palpable. It was real and visceral. The descriptor 'traumatised' is apt. Having to contemplate the father having contact with E provoked a significant reaction. In my view, ordering direct contact between E and her father could be safely managed from a physical perspective in that E could be collected and returned from her school without any parental contact. However, those type of arrangements cannot in my judgment ameliorate the deep-seated distress that the thought of contact between E and her father and the fear of how he will influence E has on her mother with whom she is to live. I consider that ordering direct contact in those circumstances is likely to destabilise and undermine E's relationship with her mother. That would not be in E's best interests.
118. Standing back and viewing the case as a whole, I do not consider that direct contact between E and her father is currently in her best interests. However, the relationship between them can be maintained by the letterbox contact the mother proposes in her opening note, together with small gifts to mark her birthday and important religious festivals observed by the family. The expectation of this court is that the letters and cards will be monthly, and the mother will set up a PO box as she has volunteered to facilitate this indirect contact. Provided the content is appropriate, the mother shall make the letters, cards, and small gifts available to E. In addition, the school shall continue to send to him directly school reports redacted to remove any information that identifies the mother's address or contact details. I find that the impact of the father's past abusive behaviours on the mother is so great that the statutory agencies should not divulge her address to the father when corresponding with him. The mother intends to move, and I give the mother my permission to withhold her new address from the father.
119. The indirect contact will run in parallel with the therapy E is to receive to enable her to come to terms with her own understanding of her life history to date. I consider that E needs a safe space in which to undertake that therapy and process her own thoughts and feelings. This continued litigation is undoubtedly impacting on the adult parties. Both are exhausted by it. What then, I ask myself must the impact be on the children at the centre of it. They will pick up on the anxieties the litigation provokes. In E's case I consider it likely that she will be aware of and attuned to her mother's

heightened emotional state. Having read the evidence that the father has submitted in writing and his closing written submissions to this court, I take the view that the father will want to continue the fight if he does not get what he wants. When the father expresses himself in writing, he does so in a way which is negative of the mother, fails to demonstrate insight into the impact of his past behaviours on her and deflects from his own past behaviours by focusing, almost obsessively, on his conviction that the professionals are biased and incompetent. That triggers the mother and the cycle repeats. For the benefit of both D and E, I have decided that cycle must be ended.

120. I have already set out the law in relation to the making of a s.91(14) order. I consider that it is in E's and D's best interests to make such an order. They need to be protected from this litigation and the pressures it places upon them because of its impact on the adults. I however do not consider that an indefinite s.91(14) order is proportionate in this case. D is already 17 and any prospect of Children Act proceedings in relation to him is diminished by his age. No such application will be available at all once he turns 18. The s.91(14) in relation to him will run to D's next birthday. E is now 8 years old but will soon be 9 years old. I consider that a period of 2 years is proportionate to the risk of harm from which the order will protect her. That will give everyone respite from the litigation. It will provide E with the safe space she needs and will be in her welfare interests. Any application for permission to make an application made by the father during that period shall be first considered ex parte on the papers to avoid the potential of triggering the mother by any unmeritorious application that may be made. Any judge hearing that application must have a copy of this judgment before them.

121. I have considered the mother's argument that she should be left to judge when E should have direct contact with her father on the evidence available to her. On that basis, an order until E reaches majority appears to be sought. The problem with that is that the mother has a wholly negative view of the father. Whilst that is a consequence of the impact of his behaviours on her, it means that she is not best placed to judge where E's best interests lie when it comes to decisions about E's contact with her father. A period of two years for the s.91(14) provides the necessary protection from risk of harm that E needs without allowing for the possibility that in the future the risk may be diminish or E may be more resilient to it if it comes to fruition.

122. I have considered the application for prohibited steps orders/specific issue orders relating to the mother's ability to make decisions about E's health and education without consulting the father. I accept her point that the requirement to consult him about such issues puts the mother into direct contact with the father who has been found to have abused her. The impact of that on the mother and thus, its likely impact on E who lives with her mother cannot be underestimated. The father tells me he has never interfered with her decision making and would not do so now. The problem is that the father has, I find, no insight into his behaviours and their impact on others, particularly the mother. I factor in the father's past controlling and coercive

behaviours towards the mother. Given his lack of insight into his behaviours on the mother, I find that without prohibition, there is a real possibility which needs to be guarded against that he will behave in a controlling and coercive way in the future towards the mother. Having heard the father give evidence, I agree that he acts as if he is superior to those around him and for whom he has no respect. If such behaviour did reoccur, I find that would be to E's significant detriment. I therefore consider that it is in E's welfare interests for orders to be made which limit the father's parental responsibility in the terms summarised in paragraph 67 of this judgment. However, they too should be time-limited and should expire at the same time as the s.91(14) orders.

123. I do not, however, make the prohibited steps orders sought by the mother to prevent the father taking the children out of the jurisdiction. Since D has lived with him, he and his father have holidayed abroad and returned. There is I find no flight risk in this case and thus I dismiss the mother's application in this regard.

124. D has a new British passport. His father seeks the return of D's Iranian passport. If the mother has it, she should deliver it up. However, the issue of the passport should not become a satellite issue which continues beyond the constraints of the case before me. If the mother does not have the Iranian passport, she should make a sworn statement to that effect which the father can disclose to the relevant authorities to gain a replacement. I understand the point the father makes about the American visa but there must be an end to this current litigation for the benefit of the children.

125. That leads me to consider D's welfare He is 17 years old. He lives with his father and that has already been confirmed by my order of 19 December 2023. I do not consider it to be in his best interests to be subject to any further orders and I discharge any extant contact orders. D is not yet an adult, but he is of an age and has an understanding to make decisions for himself about who he wants to see and when and on what terms. He is bright, articulate, and self-confident. He can articulate for himself.

126. I recognize D's autonomy and the ability to make his own decisions. However, that does not mean that D automatically gets what he wants. D's right to make his own decisions does not mean that he can impose his will on others. They have a right to respond and make their own decisions. He should respect the decisions of others. With increasing autonomy comes increasing responsibility.

127. D is not before the court as a litigant. I do not seek to bind him by any prohibition sought in his absence. This court, however, expects him to behave with responsibility and with the compassion his father tells me he exhibits.

128. That brings me to the vexed issue of sibling contact. D may wish it, but E does not. I factor in that as siblings they will have a bond which will be informed by their

lived experiences to date. Only they will know what they have experienced and how it has made them feel. They may, in the future, provide comfort to each other. However, I accept the evidence of the therapist that D is currently in his father's world. Exposure of E to D is to indirectly bring her into contact with her father. I have already balanced the benefits and detriments of such contact. The negatives, in my view, outweigh the positives. It would bring the father indirectly into the mother's world in which E lives. Added to all that, I factor in that at the moment E does not wish to see D. To force her to do so against her will is, in my view, likely to be harmful to her and actually potentially detrimental to the long-term prospects of re-establishing contact.

Next Steps

129. This judgment was handed down at 2pm on 4 June 2024. It was handed down in private. This court does not intend to publish it but will take written submissions for either party if they disagree.

130. The judgment has not been circulated in advance for proof-reading given what happened when the learned Recorder did just that. The parties have 7 days to agree a draft order to be sent to me for my approval. Any applications that arise from this judgment including a wish to publish may be made to me in writing within 21 days of today's date. That time limit applies to any application for permission to appeal that either party wishes to make to me. Any written application is to be supported by written submissions limited to 4 pages of A4 line spacing 1.5 pt 12 Times New Roman.

131. I have dealt with all the issues except that of chattels. I make no order in relation to that issue. I take a pragmatic view. The issue has been live and before the court for literally years. The chances to sort the issues finally have I hope been taken. If not, then it is disproportionate to continue the litigation about them.

132. That is my judgment.

Postscript

133. On behalf of the mother, I have been asked to publish this judgment who argues that there is a public interest in publication. The father does not object and accordingly, I have acceded to the mother's argument. This judgment will be published in anonymised form.