

**Family Court approved Judgment**

Anonymised judgment for publication 28 February 2023,  
Neutral Citation: [2022] EWFC 186 (B)

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**Neutral Citation: [2022] EWFC 186 (B)**

**Case No: TA21P00273**

**IN THE FAMILY COURT**

**Date: 3 November 2022**

**Before :**

**RECORDER REED**

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**Between :**

**M**

**Applicant**

**- and -**

**F**

**1<sup>st</sup> Respondent**

**-and-**

**S**

**2<sup>nd</sup> Respondent**

**(a child through her Guardian, CB)**

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**SH (direct access) for the Applicant**

**BM for the 1<sup>st</sup> Respondent**

**IK solicitor for the Child**

Hearing dates: 14, 19 and 20 October 2022  
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**JUDGMENT**

**Recorder REED :**

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1. S is the young woman at the centre of this case. I have written this judgment on the understanding that her Guardian will take her through its contents, along with the letter I have written to her, reproduced in an Annex.
2. The various applications before the court relate to whether or not S should continue to live with her mother in the area where she has been raised to date, and where her father still lives, or whether she and her mother should be permitted to move to another county approximately 125 miles away. Everyone agrees that S should continue to live with her mother, wherever that may be. I have decided that, for a combination of reasons, S should continue to be based in her local area. This judgment explains why.
3. Although the preceding paragraph makes the case sound straightforward, this has been a difficult case to understand and to decide. Ultimately, however, having heard and read all the evidence presented to me, the orders which are most likely to best meet S's overall welfare needs are now clear and I very much hope that receipt of this judgment will enable all three members of this family to move on from what has been a difficult two years of litigation that has undoubtedly taken its toll on everyone concerned.
4. The mother, although a litigant in person, has been represented at this hearing by Ms H via direct access. The father was represented by Ms M of counsel.
5. S has been a party to these proceedings since March of this year, and has been represented at this hearing by her solicitor IK. S is assessed as competent by her guardian and solicitor but has been content for her wishes and feelings to be represented through them.

**The factual background**

6. F is white Christian and is now 71 years of age. M is British but of Bengali Muslim heritage, and is 47 years old. The parents were married in 2001. S was born in 2008 and is now 14. The parents' relationship faltered in 2018, and after some attempts at a reconciliation finally came to an end in 2020. At some point in 2019 F suffered a serious (but fortunately short lived) medical event which undoubtedly added to the pressure upon him in that period.
7. During the period between 2018 and the issue of proceedings in September 2020 there were protracted but intermittent discussions between the couple about the application of funds from the sale of a property to an investment property. For the purposes of this judgment it is

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sufficient to say that M was more actively in pursuit of this plan than F, who was more cautious and disengaged. Shortly before the issue of proceedings M took steps to purchase a property in another area. The property is secured on a buy to let mortgage and remains tenanted (assured shorthold tenancy). M is currently reliant on the net income from that property to meet her day-to-day living expenses in conjunction with her modest income from paid employment. F is retired.

8. On 4th of September 2020 F made an application to the court for a prohibited steps order (PSO), aimed at preventing the mother from taking S to live with her at the other property. That order was granted, and although it has been adjusted from time to time since, in substance it remains in place.
9. It is common ground between the parties that as a young woman the mother underwent a marriage in Bangladesh that had been arranged for her by her parents. This marriage was highly abusive, and after some years M fled. In the course of these proceedings there has been considerable debate about whether that marriage was a forced marriage or not, but on any basis the married life M describes will have been highly traumatic. It is also common ground that F was one of those who supported M in the period after her marriage came to an end and when she was estranged from her family. In due course their relationship became romantic, F converted to Islam, and the couple were married. F no longer maintains his Muslim faith.
10. M remained estranged from her family for a considerable time, and contact with them has been limited since. In November 2020, some two months after these proceedings were launched, M's father sadly passed away.
11. Although 'separated', the parties remained living in the family home together with S until shortly after receipt of the Section 7 report in this case in February 2022, which recommended that the parents should live separately in order to reduce the ongoing harmful impact of conflict on all three of the members of the household, in particular S.
12. The mother and S now live in a rented property in the local area, which has by all accounts relieved some of the pressure on the family, albeit that the location is not optimal in terms of travel to and from S's school. S continues to have regular contact with her father and to engage in all of her long established extra-curricular activities.

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13. S is a young woman with much academic potential. She attends a local school where her progress is good. She is engaged in various local extra-curricular activities including with her father. S is very fond of animals and has struggled with being separated from her pets as a consequence of the living arrangements since the separation of her parents. She is a practising Muslim who chooses to dress modestly (albeit in a Western style). She sometimes elects to wear the hijab and adheres to a halal diet. Her faith is important to her.

**The procedural history**

14. On 4 September 2020 both parties appeared before the court in person, following F's C100 application of 3 September 2020. The District Judge made an order preventing M from removing the child from the local county or from changing her school without the father's agreement. The application focused on the absence of his consent and the lack of planning, and stated that the father was in fear of expressing his lack of consent in case the mother's reaction was abusive and played out in front of the child. He raised concern about the influence of the maternal family on the move, but did not raise any concerns about forced marriage. As far as I am aware no further hearing was listed and the proceedings were treated as concluded. In a safeguarding letter from October of that year F was reported to have told Cafcass that the parties were attempting to reconcile and raised no safeguarding issues.
15. On 9 July 2021 the mother applied by C100 for an order permitting her to take the child to [county X], which under the broad terms of the PSO then in force was effectively precluded, even on a visiting basis. In response the court directed a s7 should be filed and made a raft of other directions to gather information.
16. The refreshed safeguarding checks filed with the court in October 2021 show the father raising concern about the mother's mental health, the risks to S associated with living within Islamic law. The mother was reported to have told Cafcass she had nowhere else to go and that whilst she did not wish to live with her mother she did wish to be closer to her. She reported that S was 'anti-dad' at the moment, having become aware of her father's application the previous autumn. S was reported to have overheard her father wish her mother dead. Cafcass were concerned S was being exposed to adult issues.
17. In December the court approved a consent order providing that the PSO would be varied to allow S to travel out of the local county for a period not exceeding two nights in any month and on specified dates and day trips.

18. The s7 report was delayed, but was prepared and filed by CB in February 2022. It identified that:
- i) Many of the issues of contention were around M's wish to live closer to her family of origin with S, whereas F feared that certain cultural practices within the Muslim faith, that he alleges are adhered to by Ms' family, would constitute an abusive situation. In particular he feared that S could be coerced into an arranged marriage (i.e. a forced marriage). His evidence for this is the fact that (he asserted) M had been forcibly married at 17 and subsequently ostracised by her family, which had left her with emotional scars.
  - ii) S felt that her father 'kind of' accepted her faith but disliked him calling her 'extreme'. She reported being ridiculed by her father's adult daughter for wishing to swim in a modest bathing costume. S also had fond words for her father, and enjoyed fun activities such as woodwork. F was given some advice about supporting S with her faith.
  - iii) At that time S was 'resolving her conflict of loyalty in M's favour... she feels she has to choose between her parents as she will often speak in terms of comparison...there is hurt expressed in her experience of F...S is currently feeling uncomfortable when she is alone with F.' She was reported to deal with this discomfort by offloading on a family friend by telephone and keeping the friend on the telephone with her until her mother returned home from work rather than be alone with her father'.
  - iv) S expressed that going to a better school was really important to her. She wished to be able to move away with her mother to achieve this. She was angry about the PSO being imposed.
  - v) S expressed positive feelings about her mother and maternal family in particular her grandmother and aunt. She wanted to live with her mother and see her father fortnightly for the weekends.
  - vi) The report outlines the nature of F's stated fears about arranged or forced marriage, a history of difficult interactions and clashes between F and the maternal family historically, and the risk of S and her mother becoming subject to insidious influence and ultimately coming to harm.

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- vii) M for her part denied that she had been subjected to a forced marriage, instead viewing her marriage as arranged, albeit subsequently abusive.
  - viii) At that time CB considered the mother had valid reasons for a move, including the increased diversity in the area. M and S planned to move temporarily into the maternal grandmother's home before securing rented accommodation and then ultimately moving into the tenanted property.
  - ix) CB felt a move closer to the local area would benefit S more, and would allow F to maintain a more active role, she also thought that S's needs would also be met in the case of a move, and S would benefit from her mother feeling more supported by family.
  - x) CB thought that S was 'severely troubled by the conflict between her parents and her living situation', and that S had a developmental need to individuate which was not being met whilst the parties were all living together with S sharing a room with her mother – the arrangements were 'untenable'. She thought that regardless of location, a move needed to happen soon to stop ongoing emotional harm.
  - xi) However, having said all that, CB recommended that the court should appoint a Guardian pursuant to rule 16.4 and consider instructing an expert 'specialising in forced marriage and honour based violence...with the aim of carrying out an assessment of the wider maternal family and... M's capacity to protect'. This was later described as an 'in depth expert witness assessment' (sic). CB proposed that if that risk assessment ascertain that there was 'no risk of forced marriage or honour based violence' the PSO should be rescinded and the parties should mediate.
19. M subsequently moved into rented accommodation and S began to visit her father on a regular basis to spend time with him. On weekends he takes on activities and on certain week nights he transports her to and from her various other activities. This has happened by agreement between the parties and without the need for a child arrangements order.
20. At some point following the preparation of the s7 report S wrote a letter to the judge, which was conveyed to the Guardian via the school. She had previously declined a suggestion she could do so. That letter, which is set in beautiful clear handwriting and is very articulate, is in carefully measured and balanced terms, emphasising why she wishes to live with her mother,

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move to [town] and why she also wishes to regularly visit her father specifically on every other weekend. She expresses a wish that her father will stay put so that she can retain a base to be able to visit her home village regularly. S talks about herself and her mother as ‘a team’, her hurt at overhearing a phone call (which I think alerted her to the father’s application for a PSO), and her fondness for her pets.

21. In March 2022 CB was appointed rule 16.4 Guardian for S. By this time an application under Part 25 had been made on S’s behalf, for a ‘psychological assessment’ of the family. The proposal to instruct identified the issues as follows:

*‘The Court needs assistance in establishing whether the Second Respondent can be safely parented by the Applicant in view of the concerns raised about her cultural and religious beliefs and ascertain whether there is a child protection concern.*

*To what extent would the Applicant’s own beliefs, in terms of her previous marriage and her own traditions present as a risk to the child and explore whether the Applicant would place the Second Respondent at a risk of harm in conforming to her own beliefs and traditions.*

*To ascertain the extent of the maternal family’s influence on the Applicant and whether the Applicant and/or the Second Respondent would be easily influenced by the maternal relatives if they were living nearby. In terms of the First Respondent, it is necessary to, establish his views and beliefs. How far he would go to defend his own views. To ascertain whether his fears regarding the Applicant’s religion and culture are rational or whether they are motivated by something else.*

*The Court also needs to explore what effect the First Respondent’s religious and cultural views have on the Second Respondent.*

*The Second Respondent needs to be assessed for any harm she may have suffered or is suffering. Whether her cultural and religious beliefs are extreme, and if so, does this put her at risk of a child protection concern, such as a forced marriage.’*

22. A range of clinical, counselling and forensic psychologist CVs were provided. The draft letter of instruction proposed 22 questions concerning the parties individually and concerning their relationships. At the hearing on 31 March 2022 the instruction of Dr X to prepare a ‘full psychological assessment of the mother, father and the child’ was approved.

23. The order records that:

*'AND UPON the Court considering the questions of the experts included in the draft letter of instruction and the Court confirming that they are within the area of the expert's expertise, do not contain unnecessary or irrelevant detail and have been kept to a manageable number and are clear, focused and direct, however it being agreed that the parties shall be provided a further 7 days to agree the final wording of the letter of instruction'*

24. In the event it appears the letter was finalised without substantive amendment. It made reference to 'the duties of experts' and directed Dr X to 'schedule 4' which attached the relevant parts of the Family Procedure Rules, Practice Direction 25B and the Annex to that Practice Direction. The letter itself did not identify specifically what was contained in Schedule 4, but did make reference to the importance of reading all documentation sent.

25. The matter first came before me on 21 July 2022. Dr X's report had by then been received. It concluded that:

i) 'Honour and religion are a key part of M's culture and they reflect a strong sense of who she is. My view is based on M's upbringing: she was raised in a South Asian and Muslim collectivist honour culture, which often promotes the welfare and owner of the wider family over an individual's personal desires or wishes.' Dr X describes some positive benefits of the mother's religious faith, she opined that the positive elements of her cultural and religious beliefs had been 'outweighed by harmful cultural and religious practises within her family, and members of her local community.' the impact of these cultural practises raised child protection concerns. That opinion was based on the influence that *sharam* (shame) and *izzat* (honour) may have on the mother herself, her family under local community that she wishes to relocate closer to. Dr X gave as illustrative examples the historical problems of community members spreading rumours to shame the mother after her exit from her first marriage.

ii) Dr X thought that there were some concerns about the potential influence of the maternal family were S to relocate, because of the mother's expression of 'unwavering loyalty, respect, and obedience to her family, whilst minimising and justifying their role in coercing her into marriage and the ostracism and subsequent hostility towards F'.



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- iii) Dr X noted however that the mother had historically been able to think, behave and act in a way that her family and the wider community might disapprove of. Again, this was most clearly evidenced by M leaving her first husband, running away from her parent's home and living with F. M had often taken action 'to protect herself from the threat of harm or unhappiness' even though such behaviours 'may be considered shameful or dishonourable for women from collectivist South Asian honour cultures'.
- iv) Whilst there were positives and negatives of relocation therefore, it was possible to mitigate negative influences through interventions to enhance her coping strategies. With culturally competent counselling and safeguarding support, Dr X thought these child protection concerns could be counterbalanced, particularly given the mother's pre-existing emotional resilience, illustrated by her actions following her first marriage.
- v) M 'may have been subjected to spiritual abuse, forced marriage, and ostracism by her family'. The mother's family 'may also pose child protection concerns to S, in relation to spiritual abuse'.
- vi) The mother's description of the circumstances of her first marriage, although labelled by her as an 'arranged' marriage in fact aligned with the 2022 Government definition of forced marriage:

*'A forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced capacity, cannot) consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights. The pressure put on people to marry against their will may be physical (for example, threats, physical violence or sexual violence) or emotional and psychological (for example, making someone feel like they are bringing 'shame' on their family).'*

- vii) 'The context in which [the mother] described her first wedding...[featured] many instances of coercion and deceit, the impact of which was that she did not realise that her family were making plans for her wedding without her informed consent. For example, she said 'There were all these wedding preparations, and my brain didn't really make the link. I even saw the wedding invitations, but I still didn't make the link'. And when her father asked her opinion, she 'thought nothing of it'. More stark was

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her recollection that she was 'not allowed' to wear her glasses and was not able to see her husband properly until her father returned her glasses after the wedding. This should be considered in light of the Forced Marriage Unit definition of 'forced marriage', with regards to 'reduced capacity'.

- viii) The mother described a range of traumatic experiences from the age of 18 years, with a tendency to blame herself. She 'present[ed] with symptomology related to complex PTSD (Post-Traumatic Stress Disorder)'.
- ix) When discussing her daughter and her daughter's future, the mother 'demonstrated autonomy from her family', and 'when presented with a range of scenarios in which her daughter was depicted as breaking traditional cultural norms, she expressed for her daughter to make her own decisions, within reason, so she would be independent and confident'.
- x) 'M's own belief system is one in which her daughter should be safe so she can be nurtured physically, emotionally, and intellectually. For this to be achieved, it is also my belief that M will need culturally competent counselling and safeguarding support, to buffer the potentially negative influence of her wider family or community, whose behaviour and actions may be a child protection concern to S. I also believe that regular and unsupervised contact between F and S is necessary, to provide her with a more balanced understanding of her social world, that will aid her emotional and intellectual growth.'
- xi) Dr X opined that 'if M relocated to be closer to her maternal family, this may pose a child protection concern to S...this opinion should be considered alongside results of an expert risk assessment, or background checks, carried out in relation to members of M's family who she would be in close contact with.'
- xii) As regards S's relationship with her father, Dr X stated that the mother 'is in a position where she may be willing and able to support contact', though she 'would have to navigate what appears to be ongoing reciprocal hostilities between F and her family'. Here the report notes the mother's report of her mother repeatedly saying 'why do you keep trying to help him' (the father), and her response: 'I am not trying to help him, I am trying to help S'. Dr X reports the mother saying that 'It is an Islamic duty that a child should know their father, so I wouldn't stop their relationship'.

- xiii) F holds strong views about some behaviour patterns, beliefs and values that do not accord with his own. He is highly critical of the extreme harmful practices he believes have been used by the maternal family. Dr X suggests that the evidence suggests that his 'fears do not stem from the Islamic religion and culture per se, but more specifically, the authoritarian way in which M's family interpret and practice their faith', and that they were 'rational', based as they are on 'having witnessed the traumatic effect of physical, sexual, and psychological abuse by her first husband, and spiritual abuse, forced marriage, and ostracism by her immediate family, on his wife'. He was 'likely to continue to openly and staunchly defend his views on harmful practices as he believes his daughter may be at risk of similar'.
- xiv) Dr X stated that the father's 'strong views about extreme harmful practices have merged with his views about general Islamic customs and practices. For example, he expressed discontent at what he calls his daughter's 'radical' religious choices, such as a modesty swimming costume, and her choice to eat halal meat - neither of which can be considered as radical and are common choices of many liberal Muslim girls and women worldwide. He described his daughter's choice of swimwear by saying that she looked 'ridiculous', reasoning that he did not want her to stand out from the crowd yet acknowledged that she found his comments to be 'blunt'. M said that S had told her that she found these to be 'hurtful and makes her back stiffen and wants to go more that way.'
- xv) The father 'would benefit from attending a short course to improve his awareness of general Islamic practices, which may help to untangle this from the harmful practices he has appears to have witnessed in his relationship with M and her family, and better his understanding of S's choice to follow certain religious customs.'
- xvi) Dr X confirms that they do not view S's views as a child protection concern but that 'S's cultural and religious beliefs may be used to pressurise her into behaving or acting in a way that she does not consent to'.
- xvii) Dr X concluded that 'S should live with M, and that she should have regular, unsupervised visits to spend time with F. I concur with the report recommendations written by [the Guardian] that every two weeks, S spends weekends with F, as well as half of all school holidays'

- xviii) Dr X states that both parents ‘have in common a strong and unwavering affection and love for S, and that they both wish to safeguard her despite the obstacles they may personally face. M and F express and demonstrate their love and care to S in very different yet complementary ways, and that the influence and support of both parents are critical for S’s healthy psychological, physical and intellectual development, as she goes through adolescence and adulthood.’
- xix) Dr X was ‘unable to provide a formal comment’ in response to the request to assess the child’s attachment to each of her parents.
26. In responses to written questions Dr X confirmed that S should live with her mother regardless of location, it was not necessary for the culturally competent counselling to be received prior to any move, that such counselling would ‘contribute to the mother’s psychological and physical health which would in turn contribute to alleviating potential risk presented by the maternal family / community’ and confirmed that her assessment should be considered as ‘part of a wider expert risk assessment or background checks’ in relation to the wider family.
27. At the hearing before me in July the mother was represented by Miss L. In her position statement and in submissions it was made clear that the mother did not agree with the report of Dr X on cultural issues and the risks associated with her family, and that she wished to challenge the report substantially. I was presented with a raft of further questions the mother proposed to ask in writing, but took the view that these were more than questions by way of clarification, and that they should be asked in cross examination at trial (In the event most of those questions were never asked of Dr X).
28. Because one of the mother’s complaints at that time was that Dr X had formed their opinion without meeting with any of the extended family, I sought clarification as to whether any of the parties wished for there to be a further expert risk assessment as indicated by Dr X, but it was said that the conclusions of Dr X were based upon the mother’s own account of her experiences, and all parties therefore agreed that the proportionate approach was instead to ask Cafcass to carry out safeguarding enquiries in respect of the relevant adults. These checks were subsequently carried out with the consent of the family members and raised no concern.
29. In addition to the concern about forced marriage and honour-based abuse, the apparent issues at the July hearing included a disagreement about whether or not S should be permitted to travel to a range of locations including whether she should be permitted to attend the Hajj,

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due to the father's safety concerns arising from crushing deaths in previous years. Disagreement as to the extent of the PSO as regards foreign travel, and the holding of passports, and the concerns did not just relate to the risk of forced marriage. It did appear clear there was no issue as regards who S should live with, because the mother's position was that if the court declined to relax the PSO to allow the move to [town] she would simply stay in local area, and all agreed she should continue to care for S. Other than by reason of a move to [town] there was no suggestion that I would be asked to resolve any dispute as to schooling.

30. I set the matter down for trial. A ground rules hearing was set up, primarily to ensure that arrangements were in place for S to see the court room and to make plans for her attendance at the final hearing in accordance with her wishes at that time. I explored whether either of the parents required any participation directions themselves, but both were clear that they did not require any particular arrangements.
31. in the event, S changed her mind and decided that she would prefer not to attend the court hearing, but she expressed a wish to meet with me. I therefore met S remotely with the assistance of the guardian and solicitor on 3 October instead of conducting the ground rules hearing, which had by this point become redundant. S was clear in her views, polite and inquisitive about the process, pressing me to tell her which way I thought I might decide the case.
32. The Guardian filed her final report in September and, based in part upon the report of Dr X, she recommended that S should live with her mother in the local area rather than moving to S (or at any rate that she should not move until the mother had begun the recommended treatment). She recommended flexible contact between S and her father and some further relaxation of the PSO to allow for greater, but not unrestricted, time with the maternal extended family. Of particular importance in that report are the following aspects:
  - i) S's expressed wishes had changed: '..S has said she no longer minds where she is as long as she is with her mother, which was her position at the start of the proceedings. Likewise, she also reiterated her very initial position regarding the benefit of changing schools and expressing herself slightly negatively about her current school. [IK] and myself asked S whether it is fair to say that she is conflicted about where she wants to live, and she acknowledged this.'... 'It is difficult to say what she would be saying did she not feel she needed to consider her parents' and above all her mother's wishes,

and it is difficult to say if S herself knows what she would want to happen independently of her knowledge of her mother's wishes. S is very bright and also adventurous and independent. Part of her would be looking forward to a challenging change in an urban more cosmopolitan environment at a school where she feels she would be more stretched. Another part of her likes the rural peaceful life ... with her pets around her. She does worry about how she will continue to get to school should she stay ... as the journeys have put pressure on her mother's finances. However, we have explored the pros and cons and her most up to date position is that she does not mind where she lives as long as it with her mother. She is aware that this could mean her not moving.'

- ii) The Guardian flags that 'Since the last hearing [the mother] has maintained that in the event of a move to [county x] S's contact with the maternal family would only be occasional and not 'close', and that the real reason for the move is to offer S better life chances through an education that meets her potential better. This is in contradiction with the motivation for this move that was stated previously.
  - iii) S was said not to have any objection to not being allowed to go to Bangladesh, commenting that whilst she wishes to visit Bangladesh some time in the future, she probably wouldn't be going in the next few years anyway. The PSO should be relaxed so as to allow foreign travel, save to Bangladesh (inferentially due to the risk of forced marriage). The guardian recommends the passport should be held by the mother, but released to the father for the purposes of agreed foreign travel.
  - iv) The Guardian noted that a move to [town] would mean a lot of change, and would have an impact on her relationship with her father, which had improved since the move. She goes on to say that 'A change would mean the introduction of a risk from the maternal family that I am respectfully not prepared to accept. I am accordingly not convinced that change would be for the better.'
33. Having considered the parties final evidence and the Guardian's report before meeting with S I had the opportunity to consider the case before the hearing commenced on 14 October. I invited the parties to note that, in view of the increasing focus upon forced marriage in final evidence, I would *potentially* need to *consider* the court's powers under Part 4A Family Law Act 1996 (Forced Marriage Protection Orders), as part of my overall consideration of the case.

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I was troubled by the fact that reason for the continuation of the PSO and the continuing restriction on the mother's ability to choose where she lived, was increasingly focused upon the risk of forced marriage, and that the specific powers that Parliament had been given to deal with such risks had apparently been overlooked. I made plain that my flagging of the issue was not to be taken as any indication of the merits of such an order, but mindful of the need for rigour and fairness when considering such orders, it seemed to me that it was prudent to flag the issue for consideration prior to the hearing (*K (Forced Marriage: Passport Order)* [2020] EWCA Civ 190).

34. I further flagged to the advocates the provisions of PD25B and its annex, and drew their attention to the May 2022 Joint Guidance issued by the Family Justice Council and the British Psychological Society: 'Psychologists as Expert Witnesses in the family courts in England and Wales: Standards, competencies and expectations', along with the President of the Family Division's recent Memorandum on Expert evidence.

**The applications before the court**

35. The applications outstanding are :
- i) Relaxation, variation or discharge of the PSO relating to where S should live with (either to allow her to live in [town] or if not to visit it more frequently)
  - ii) Relaxation, variation or discharge of the PSO insofar as it relates to foreign travel (as far as I can see no specific order prohibiting foreign travel has ever been made but the effect of the broadly worded order prohibiting the mother from taking the child out of the county (save for short periods) has been to preclude foreign travel. It is now agreed that the only restriction should be in respect of Bangladesh.
  - iii) Child arrangements orders – that there should be an order providing for S to live with her mother is uncontentious. Whether there should be an order providing for contact, and if so in what precise terms is not agreed.
  - iv) Schooling. In the event of a move S will inevitably need to change school, but until the outset of this hearing it was not known that the mother sought to change the child's school even if a move to [town] was not permitted. On day two of this hearing the

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mother sought to make an oral application for a specific issue order permitting her to change the child's school to another local school.

**The law**

36. All the applications before me are species of s8 Children Act 1989 applications. The welfare of S is paramount and I must consider all the circumstances in particular those set out in the welfare checklist. I must not make an order unless I consider it better for S than to make no order. I must bear in mind that in general delay is prejudicial to welfare.
37. This is in essence an internal relocation application. The caselaw on internal relocation is clear: the ultimate task is to look at all the circumstances, to have regard to the welfare checklist and to keep welfare as my paramount consideration (*Re C (Internal Relocation)* [2017] 1 FLR 103, CA). However, some of the factors that often fall to be considered as part of the mix in this sort of application are:
- i) whether or not the imposition of a restriction on where a parent with care should live is really justified (*Re M (A Child)* [2014] EWCA Civ 1755),
  - ii) The motivation for the move (for example is it motivated by a wish to undermine the father's relationship with the child). In this case, although it has been suggested that the effect of a move would be to undermine the relationship, it has not been suggested that this is the motivation behind the move,
  - iii) The practical proposals for the move (as per *Payne v Payne* [2001] 1 FLR 1052 CA),
  - iv) The wishes and feelings and interests of the parents and the impact upon them of the move.
38. By s63C Family Law Act 1996 I do have power to make a Forced Marriage Protection Order (FMPO) of my own motion in other family proceedings, if I consider that it is appropriate. That power does not extend to making orders against non-parties. *K (Forced Marriage: Passport Order)* [2020] EWCA Civ 190 sets out the staged approach that should be taken and the seriousness both of forced marriage and FMPOs. I have considered the scope of the powers under Part 4A of the Act, but as I have concluded that an order is neither necessary nor appropriate, it is not necessary to say more.



### **The evidence I have heard**

39. I have read the bundle containing the parties' evidence, position statements, the expert reports and various applications and orders. In addition, I have sought and obtained the letter of instruction and attachments, the original application from September 2020, the original version of the mother's position statement relied upon at the hearing in July 2022 (as distinct from the edited version in the bundle for this hearing) and the proposed questions for Dr X presented to me in July 2022.
40. Shortly before the hearing I received updating position statements from both parents, and on the morning of the hearing a further document from Ms M dealing with the FMPO issue. I have read all of those materials.
41. I have heard evidence from Dr X, followed by the mother and the father. On the third day of the hearing it was necessary to recall the mother to clarify something raised in her evidence. Finally I heard from the Guardian. I have heard brief submissions from all advocates, which focused mainly on the welfare checklist.

### **The expert evidence**

42. I need to deal with a number of issues relating to Dr X's evidence. I preface my remarks with a clear acknowledgment of Dr X's obvious expertise in relation to forced marriage and domestic abuse in South Asian communities and as an academic psychologist specialising in forensic psychology. Dr X's explanation of how coercion can operate powerfully but insidiously in communities or households which operate in line with collectivist honour cultures, and where the concepts of shame and honour hold power, was important and helpful in understanding the mother's experiences in this case. I also make clear that Dr X has acted in good faith in carrying out their assessment and in giving evidence.
43. However, standing back, it is now apparent that there was a collective lack of focus or clear consensus on what sort of assessment was being sought and obtained – and of what sort of expertise was required, what questions were required to be answered and how that matched with the expertise of Dr X specifically. Through careful scrutiny of Dr X's CV and report I was able to ascertain that Dr X's expertise was as an academic not a practitioner. As such, they are not registered with the HCPC. Registration is not a mandatory pre-requisite when the court appoints a psychological expert, and it is open to the court to appoint an unregistered

**Family Court approved Judgment**

Anonymised judgment for publication 28 February 2023,  
Neutral Citation: [2022] EWFC 186 (B)

psychologist, usually where that psychologist is an academic who holds Chartered Psychologist status as Dr X does. However, the task Dr X was set was broader than a simple exposition of the way in which cultural or religious issues work to give rise to risks around forced marriage or honour based abuse, and encompassed questions that would usually be answered by a practitioner psychologist, where registration is mandatory. Dr X is not a clinical psychologist qualified to make a diagnosis. It is not clear to me that any of the professionals had considered or appreciated these matters until I queried them.

44. it is unclear from my reading of the Practice Direction, current guidance issued by the BPS and Family Justice Council or from the HCPC website whether or not registration is required where an expert in forensic psychology who is primarily an academic rather than a practitioner psychologist carries out expert work that involves assessment of individual parties. Dr X evidently does not think this is required. Clarification would be useful.
45. Although in the end, I have been able to make use of Dr X's expertise and to reach sound decisions in this case, in another case the collective failure to identify what the report did not provide could have led to poor decision making or further delay in reaching a decision – because Dr X's expertise was not a good match for all of the wide-ranging questions posed.
46. Pursuant to para 4.1 of PD25B it is the duty of an expert in children proceedings (amongst other things):
  - i) to comply with the Standards for Expert Witnesses in Children Proceedings in the Family Court which are set out in the Annex to this Practice Direction
  - ii) to answer the questions about which the expert is required to give an opinion
  - iii) to confine the opinion to matters material to the issues in the case and in relation only to the questions that are within the expert's expertise (skill and experience);
  - iv) where a question has been put which falls outside the expert's expertise, to state this at the earliest opportunity and to volunteer an opinion as to whether another expert is required to bring expertise not possessed by those already involved.
47. Those matters should have been at the forefront of the minds of those instructing and the expert.

48. By paragraph 9.1 of PD25B the expert's report in children proceedings must contain (amongst other things):
- i) a statement (verified by a statement of truth) confirming that the expert is aware of the requirements of FPR Part 25 and this practice direction; and that
  - ii) they have complied with the Standards for Expert Witnesses in Children Proceedings in the Family Court which are set out in the Annex to Practice Direction 25B.
49. No such statement was contained in the report. Instead there was a statement of truth in entirely different terms which referred to an unidentified tribunal.
50. When the application was made it was said to be variously for a 'risk assessment' or a 'full psychological assessment'. Dr X has, in terms, not provided a risk assessment, or at any rate not a standalone risk assessment, as they have been at pains to point out in their reports and oral evidence, in flagging the need for the report to be read in conjunction with a risk assessment of the wider family. Dr X repeatedly emphasised in writing and in oral evidence that there 'may' be a risk of honour-based abuse or spiritual abuse or forced marriage, but it was not until I pressed Dr X that Dr X offered any indication of the *level* of risk (in each case they said low/minimal). That there 'may' have been such a risk was the whole reason for the assessment. Quantification of that risk was (along with assisting the court and parties to understand the mechanisms, nature and source of the risk) surely one of the main purposes of the exercise.
51. Nor is the assessment a 'full psychological assessment'. It is described on its face as an 'independent psychological assessment'. However, Dr X's oral evidence made clear that they did not consider themselves to be conducting a 'full psychological assessment', but merely answering the (22) questions they had been posed. A number of those questions were the sort of questions which I would ordinarily expect a clinical psychologist to deal with, and I would expect those questions to have prompted more detailed responses than were provided, as part of an overall psychological formulation (there was some limited psychometric testing, relatively short single interview and some brief treatment of medical records). What appeared on superficial consideration to be a *diagnosis* of CPTSD for the mother was confirmed in oral evidence to be no such thing, because Dr X is not qualified to make a diagnosis. Dr X confirmed to me that they only used psychometric tools which did not

require accreditation. Those tests were heavily caveated, and their results therefore of limited assistance.

52. When the Guardian referred in her report to the mother's diagnosis of CPTSD I assumed that she must have understood Dr X to have made a diagnosis, but in fact the guardian told me that she had not understood Dr X's to have made a diagnosis, but rather had been careless with her own wording in her analysis. I am bound to say that a diagnosis of a mental health condition is a serious thing and it seems to me it is incumbent on any expert or professional to take great care when distinguishing between possible symptoms consistent with a condition and a diagnosis.
53. Dr X did not answer the question relating to the child's attachment to her parents at all and nor did they explain why they had not done so in her report. Surprisingly, nobody queried this omission in either written questions or in cross examination. In response to a question from me, Dr X confirmed that in fact they had not done this because a fire alarm at school on the day of the assessment meant they had run out of time to conduct the necessary testing. That being the case, I do not understand why this was not explained until I asked about it. I do not understand why no further attempt was made to ensure the question was answered as directed by the court.
54. I was compelled to ask a number of questions of Dr X in the course of their evidence. My focus in asking questions of the expert in this case was on ensuring that I understood the nature of the expert evidence I had, in order to assess the extent to which I could properly rely upon it. In many respects I have found it helpful. However, since none of the parties were inclined to deal with the foundational issues I have set out above, each relying on different aspects of the report to support their contradictory positions, it fell to me to do so. It was not a comfortable position to be in.
55. Regrettably, it was left to the court to explore the apparent non-compliance with PD25B. Undoubtedly this was not a comfortable experience for Dr X, but I strove to be fair with Dr X in trying to clarify the position.
56. Following the conclusion of her evidence Dr X sent a letter to the court. In that letter Dr X expressed that they wished to confirm their 'credentials as a legitimate expert witness in this case'. As I was at pains to make clear to Dr X during their evidence, Dr X's expertise in relation to honour based violence and forced marriage was plain. It is also clear that, as a Chartered

Psychologist, the court was fully entitled to appoint Dr X as an expert on matters within their expertise. What is less clear is whether, when making the decision to instruct, it was appreciated that Dr X was not a practitioner psychologist. Dr X refers me to the guidance from the ACPUK states that ‘an academic psychologist may be useful to the court to consider specific matters within their area of research expertise’. The quoted guidance goes on to say that academic psychologists ‘should not be used to assess individuals, make diagnoses or formulations, or be asked to give recommendations about therapy’. And yet Dr X was instructed to do just that, and accepted those instructions.

57. Dr X’s report is headed on each page ‘Specialist field: Forensic psychology; Domestic abuse in South Asian Communities’. Dr X has an impressive CV detailing their experience as an academic working in the field of forensic psychology and domestic abuse in south Asian communities. However, since over a decade ago when Dr X was a Forensic Psychologist Trainee, it appears Dr X has been in a primarily academic role. This explains why Dr X is not registered with the Health Care and Professions Council – Dr X is not a practitioner psychologist. Dr X distinguishes stating their field of professional expertise as forensic psychology from use of the protected title ‘Forensic Psychologist’ (protected title holders are required to register). As Dr X pointed out to me they are a Chartered Scientist and a Chartered Psychologist, but it is not clear to me whether this was clear to the parties or the court at the point of instruction or at all until I pointed it out.
58. Whilst the guidance and rules clearly do permit the instruction of an expert psychologist who is Chartered rather than an HCPC regulated practitioner psychologist, it must also be right that the court, the parties and the expert should be clear about whether or not the piece of work expected is within the competence and expertise of the expert in question. For what was no doubt a combination of reasons, I am not confident that that happened in this case, and it is regrettable that it was not picked up. Save to the limited extent set out below, I don’t think it is helpful or necessary to try to apportion blame for that, but it is necessary to deal with the issue as it arose during the hearing I presided over so that the basis upon which I have relied upon the expert evidence of Dr X can be understood.
59. In oral evidence Dr X confirmed that they had only completed ‘four or five’ reports for the Family Court and they were not familiar with the provisions of the Practice Direction. This latter confirmation is unacceptable. It is a core duty of any expert instructed in proceedings of this sort to read instructions, to read all documents and to be familiar with the applicable

rules and practice directions. I am satisfied from considering the letter of instruction that these were sent to Dr X and that Dr X was directed to them at the outset of their instruction (although it would have been better if the letter had been more specific rather than incorporating by reference to an annex). In my view, the absence of a correct declaration should have been a red flag to the lawyers in the case which should have prompted query or further scrutiny. The court is entitled to expect that experts will read their instructions properly and be familiar with the basic expectations that the family court has of experts working in this field. Had Dr X read the materials to which they were signposted I am sure it would have assisted them in the preparation of the report and in giving their evidence, given that Dr X has so far limited experience in giving evidence in this specialised forum.

60. Both the longstanding provisions of PD25B and more recent guidance from various sources has or should have raised awareness of the need for experts to properly and transparently set out their qualifications, regulatory status and expertise in a way that does not give rise to a risk of confusion, and for those instructing to properly scrutinise those credentials, and to ensure proper focus on the scope and nature of any assessment to ensure a proper match. Had this taken place the assessment would have been tighter and any omissions or difficulties properly identified and flushed out.
61. Although Dr X is clearly correct to say they have expertise in forensic psychology, I think with the benefit of hindsight it is unfortunate that Dr X's CV for family court work unfortunately does not state that they are not registered with the HCPC. Dr X told me that 'On reflection maybe I could have put more boldly' that they were not registered, but that 'I think came very openly as a chartered and not forensic psychologist'. I am sure that Dr X had no intention to confuse or mislead. However, I certainly did not pick up immediately that Dr X was neither a practitioner forensic psychologist or a clinical psychologist and nor, I think, did anyone else. Had there been an explicit reference to Dr X being an academic psychologist in their CV (or had the proper checks on HCPC status been carried out by one of those involved in the case) there would have been no doubt as to the basis of instruction, and I anticipate that the terms of instruction would have been either more focused to Dr X's particular expertise, or (if it was felt that a practitioner forensic/ clinical psychologist with cultural competence was required) then a different or additional expert would have been instructed.
62. Turning to the substance of Dr X's evidence. Whilst Dr X's evidence was helpful as to the general risks associated with south Asian honour based collectivist communities, and I rely

upon it, I think I must be cautious as to how far I can apply that general learning to a specific family, even where one of the parties is able to give a first hand account of the past behaviour of that family. My decisions must be based on the specific evidence before me and I must not fall into the trap of using the general learning to create and apply stereotypes to unassessed individuals who have not been asked to give their account. Other than a brief conversation with the Guardian in the course of the preparation of her s7 report, and some very basic checks, no assessment of any individual family member's current circumstances or attitude has been attempted - and no party has sought it (and nor was Dr X asked to carry this out).

63. Whilst Dr X's report and oral evidence was explicitly caveated, I was confused by their oral evidence when they said in response to a question on behalf of the father that their opinion was 'based on the discussions I've had and the information presented. To make a robust consideration it also needs to be boosted with further information about family members. This can only be based on close discussions with family. Risk assessment is not possible, essentially.' When I asked Dr X what this meant in terms of the reliance I should place on their assessment of risk, Dr X said they were 'confident' and there was enough information to make an assessment.
64. Dr X confirmed in oral evidence that in their view the mother's marriage was forced because there was clear evidence of coercion, and it was arranged without her informed consent. Dr X also placed substantial reliance on the description of the mother not seeing her husband's face until after the marriage because her glasses had been removed from her. Based on the mother's description of events as they are recorded in the report (which were not challenged in cross examination), the arrangements do seem to meet the definition set out above, and potentially the slightly different definition in s63A Family Law Act 1996. The somewhat different description given in the mother's subsequent oral evidence has meant that I have needed to reconsider some of the specifics of the account set out in Dr X's report, but importantly, Dr X explained that coercion can operate insidiously over time so that a person who is immersed in a culture does not realise its influence upon their behaviour as expectations become normalised. Dr X helpfully unpacked what they meant by a collectivist culture:

*'there is a difference between more European cultures where there is a focus on the individual and South Asian cultures where the focus is on community and culture...in European cultures we talk about 'I' but in collectivist cultures its 'we'. What is important for 'we' often has more*

*emphasis than what is important for 'I'. It can be extremely powerful and it can be extremely wonderful. It has many benefits. Unfortunately, it is my opinion that M's experiences of 'we' were overemphasised and her experiences of 'I' were under emphasised. She was coerced to behave in a way that was acceptable for 'we'. Haram and shame played a fundamental part in controlling the way she was expected to behave.'*

65. When I invited Dr X to consider whether the term 'conditioning' was a helpful way to capture this process, they agreed. The risk, said Dr X was of psychological coercion, communicated by words and expectations (*sharam* and *izzat*) - and it would be subtle but powerful.
66. When asked to consider the risk to S in light of the history Dr X did not think that a FMPO was warranted. Dr X considered that regular contact between S and her father would be a protective factor. In general, having contact with a wide range of different people from different backgrounds would allow S to make her own informed decisions rather than being totally immersed in a traditional culture that might operate in a harmful way.
67. Dr X told me that although the risk would increase to a degree if the mother moved to the S area with S, 'I also believe that M would go to extreme lengths to try and protect daughter from any exposure to this.' The risk would be reduced the more support she has.
68. When asked to quantify the risk, Dr X stated that the risk to S of forced marriage was not high, and not medium but 'minimal'. It would be based on coercion i.e. psychological not physical. The risk of other honour-based abuse was also said to be 'minimal'. Here Dr X noted the mother's history of having behaved throughout her adult life in ways that contradict expectations for a South Asian woman and of standing firm and defending herself despite extreme pressure. Thus, said Dr X, the mother was 'pivotal' in terms of protecting S. Any risk of honour-based abuse or forced marriage came from the family or community not the mother.
69. Dr X also confirmed that S 'is not her mother' and is in a different position than her mother was when she was subjected to honour-based abuse. She is a child of dual heritage and raised as such. She is mingling with a wider cultural background and is confident, competent and self-assured.
70. Having established that Dr X was merely reporting symptoms consistent with CPTSD rather than diagnosing it, Dr X told me they did not think that this condition / symptom set would



reduce M's ability to safeguard S. The recommendation for culturally competent counselling i.e. counselling delivered by someone with understanding or experience of south Asian collectivist / Muslim culture and issues around honour based abuse / domestic abuse, was designed to improve M's wellbeing and to help her process her traumatic experiences, which would overall benefit S and specifically would booster M's protective capacity and resilience in the face of any coercion that might come to bear upon S directly or through her. That counselling should take place as soon as possible, but it need not be completed or even started before a move. It would probably take six months or more to complete. Dr X made clear that taking the first step to identify a suitable counsellor who might provide services online, would be a 'big, bold step'.

71. Dr X refined the recommendation regarding work for the father by suggesting he should contact the local mosque or college groups or outreach groups to learn more about Islam on the ground, rather than undertaking an academic course. Dr X opined that the father had himself probably experienced secondary trauma having listened to M's account of her own experiences and supported her in the years that followed, witnessing her upset.
72. Asked about the father's contact, Dr X stated that the quality rather than the frequency of contact was most important. Dr X felt unable to comment on frequency.

### **The Parents**

73. Both parents spoke warmly and with individual insight into their daughter's characteristics, needs and strengths. Each of them draw a slightly different pen picture of S, but it is clear they love her very much and are proud of her. Both of them worry terribly about her.

### **The mother**

74. The mother's written evidence regrettably did not set out any real detail of her proposals for housing, employment or even schooling were she to move to [town]. The court was told initially of a plan to move into rented accommodation in the local area, before evicting the current tenants of the owned property and moving in there in March 2023. The mother had made, it was said, two very recent applications for employment in the [town] area and had identified a potential rental property. Details of the property beyond 'two bedroom studio flat', whether it had a garden or could accommodate pets etc, were not specified. There was no supporting documentary evidence of job adverts, property particulars or otherwise. As

regards schooling, whilst the mother had provided some basic information about two proposed schools in the S area (neither of which the father took any particular exception to IF there was to be a move), it was now proposed that a third school (a single sex school) should be added to the list. The court was not provided with any information about this school, but was told that S had recently identified it herself and was keen. No advance notice of this proposed new school, or indeed the plans for the move had been provided to the father. Whilst I appreciate the mother is a litigant in person, she has had legal assistance available to her and this information ought to have been provided both to the court and to the father.

75. The mother seemed to be under the impression that evicting her tenants would involve no more than a matter of giving them ‘a month – maybe three months’ notice. Further enquiries led to the court being informed that the property is let by an agent on an Assured Shorthold tenancy. Even without knowing more, it seems reasonable to assume that neither the court nor the mother can rely upon being able to secure vacant possession of the property immediately, particularly if upon service of notice, possession proceedings are required to be commenced.
76. The mother assured the court that the cost of the buy to let mortgage would not be rising by an unmanageable amount when the current fixed term expires next year. That remains to be seen, but fortunately the rental income is significantly in excess of the mortgage costs. The mother’s ability to secure a residential occupiers mortgage as opposed to a buy to let mortgage is completely untested. The mother’s current income is low, and is substantially made up of rental income, which of course will disappear at the point of eviction. Her future income is unknown, but is unlikely to be significant. The property is a 4-bedroom property which exceeds her needs and which has a substantial mortgage on it. I note also that financial proceedings are yet to commence, and the parties are at the preliminary stage of preparing disclosure. Although not something that has yet crystallised as an issue, it is apparent that there is a potential substantial dispute about the circumstances surrounding purchase of that property and the source of the funds.
77. At present M is able, with some difficulty, to meet her outgoings using a combination of earned income and rental income. Even with the rental income, the costs of travel to and from school have been difficult for her to manage. She has recently had to secure alternative employment.

78. Her aspirations should she be required to remain local would be to rent a property slightly nearer to S's school (whether her current school or the proposed new school), to reduce travel time and cost.
79. The mother confirmed that on any basis she was seeking for S to move schools, on the basis that the current school is not stretching S sufficiently and in particular that it cannot accommodate the 10 GCSEs that S requires to undertake if she wishes to pursue her chosen career. It is said that any of the 3 S Schools or another school (easily accessible from both parents' homes) could do so and that this school would better meet her needs. The father, to his credit, indicated in his evidence that he would consider this proposal (which he had heard for the first time as the mother gave her evidence) and if S was genuinely keen he would not stand in the way of a move, even though his preference was to minimise the amount of change S had to undergo. I have not been provided with any information to confirm the position as regards how many GCSEs each of these five schools can accommodate. I have not been provided with any written information about the other school, in light of the fact that the father acknowledged that he knew the school, knew there were some children with whom S was familiar attending that school, and that in general he did not raise any objection to it as a suitable and decent school, I can manage without that information for today's purposes.
80. As regards the father's relationship with S, I was struck by the mother's tendency to minimise the improvement in the relationship since the household was split, which has been reported by the guardian. Overall, the mother was quite negative about S's relationship with her father, which was not entirely in keeping with the assurances in her written evidence about promoting the relationship and about her understanding of the value of it. The mother repeated in her evidence on number of occasions that she would facilitate contact if S were to move further away from the father, and even encourage it, but that she would not force her to do anything she didn't want to do. The circumstances in which she envisaged actively encouraging S to attend contact were centred around the moral obligation not to let other people down at short notice, and I did not detect a strong motivation to encourage S to maintain her relationship with her father for her own benefit. I was left with the distinct impression that 'encouragement' would be potentially quite limited. Mother said that she did not see it as her role to pay for the travel expenses, and did not offer to share the travel burden. At one point she suggested that in due course, albeit not immediately, S could travel

on the train to and from the two homes. A moment's inquiry on any train app was sufficient to establish this was not a feasible proposal as the journey is both lengthy and complex.

81. Overall, it seemed to me that the mother's plans and the degree to which she had thought about the reality of her move and the consequential arrangements that would need to be in place in order to sustain S's important relationship with her father was minimal. This was all the more surprising given that the issue has been live for over two years. In a number of respects the mother's answers to probing about her plans appeared to be being devised in the witness box – and in one respect were revised subsequently, when I was told at the start of day 3 that the mother's position was in fact now that she would rent a property in S until S completed her GCSEs, and defer moving into the mortgaged house until that time, rather than subjecting her to two further house moves in quick succession. I am afraid that I do not agree with the Guardian's evidence that this was to be expected because the mother could not plan until she knew she could move. Whilst plans cannot be finalised, there is not normally any difficulty in making sensible financial and practical plans and to providing the court with information about what life will look like for a child in their new location.
82. As regards the issue of forced marriage and honour-based abuse, I was surprised to hear the mother confirming in her evidence not only that she now accepted that the marriage was forced (this was not apparent from her written final statement) but also that she had been of this view since reading Dr X's report dated 30 June 2022.
83. It was in connection with this issue that I sought out the materials from the July hearing, because it was my recollection that the mother's position at that hearing had been clearly based upon a wholesale rejection of the father's concerns about forced marriage and honour-based abuse. That my recollection was correct is borne out by a reading of the mother's position statement, and the questions she at that time proposed to ask the expert. When recalled to the witness box to clarify the position, the mother stated that she acknowledged that her experiences fit the legal definition. However, she said, 'I had to acknowledge it immediately but it probably took a few days to sink in as part of me.' Reminded that she had been actively asserting that there were substantial factual inaccuracies in the report at the July hearing, M told me that 'Some of my responses were because I was angry at what was in there.' (the report). Asked if she was angry at the things F had said, or the report or both she said 'A bit of both but mainly at the report'. Questioned by Ms M as to what those factual inaccuracies were, M's responses strongly suggested that in fact her 'acceptance' of the

marriage as forced was technical but not internalised. The tendency to self-blame that Dr X had described in [their] report was clearly evident when M, having compared her forced marriage to reality TV Programme 'Married at First Sight' confirmed as accurate that she had told Dr X she was fearful before the marriage :

*'I was but I taught my daughter to feel the fear and do it anyway. People are scared of the unknown. Don't let life stop you from having an experience because you are scared. It's not surprising I was scared. From the legal definitions that is not quite the attitude I should have had to my marriage.'*

84. M at one point said to counsel trying to identify the alleged factual inaccuracies in the report 'In some ways it painted a picture not true to what I was trying to say. I didn't know I was painting a picture at the time. I thought I was merely talking. My apologies for my narrative.'
85. Overall I formed the impression, consistent with Dr X's opinion, that the mother is still on a journey to appreciating the real meaning of forced marriage, and how it was that she came to be the victim of such a marriage, whilst believing herself to be going with the flow and allowing her parents to sort her life out for her at a moment in her life where she was feeling 'melodramatic' and somewhat nihilistic.
86. The mother was very clear in her evidence that she would not wish S to undergo any marriage that was not fully consensual and informed, and to a partner of her choice and that she did not aspire for her to be the subject of an arranged marriage. Her evidence was that her widowed mother is very much 'done with' the whole idea of arranged marriage, and that many of the young adults in her extended family (her nephews and nieces) are unmarried and gainfully employed. She acknowledged that her brother and sister are more strict observers of tradition than she, but told me that the contact with her brother was, and would remain, limited. She anticipates that she and S would see her sister at her mother's home (as currently happens), probably slightly more frequently than currently happens but for shorter periods (currently distance and the PSO means that S and the mother visit when permitted and stay for the weekend, whereas in future they might visit for an afternoon once a fortnight, or go swimming together).
87. Whilst the mother told me that the travel time between her home and her sister's home was an hour, and I am familiar with the locations in question (and have rechecked them myself) the journey time is more like 20-40 minutes. Similarly, whilst I was told that the travel times

to the maternal grandmother's home is over an hour, in fact it is more like 30 minutes to an hour, dependent of course on traffic.

88. M says she is willing to undergo culturally competent counselling, and indeed told me she is looking forward to it. However, she has not prioritised that work, and only made enquiries about it following Dr X's evidence (stating that she had not previously realised it could be undertaken online and thought she would need to wait until she arrived in S to set it up, which I think is an understandable misapprehension).
89. Overall I formed the view that the mother is (as she has had to be at times) capable of being quite self-reliant and single minded. She is hurt at what she sees as the father's efforts to stop her from getting on with her life and tended to see him as passive or disengaged. She told me she had not raised the issues of a proposed change of school in the local area with him because he was not interested in discussion. It did not seem to have occurred to her that the father might have responded with consideration to this idea (as he did) or that it might represent a reasonable compromise or at worst a better second best than her preferred plan of moving to [x town].

### **The father**

90. The father is strongly opposed to the move, considering that it will expose S to unnecessary disruption that she will find hard to adjust to, and I consider he is evidently genuinely fearful that it will lead both to the diminishment of his relationship with S and that it will expose her to very real risks. Although not the main element of his opposition he considers that the more urban area proposed is less desirable, that S may struggle to make friends there, and that she will miss her rural life.
91. On one level F is clearly quite knowledgeable about Islam. But his evidence reinforced the opinion of Dr X that his experiences of what he has seen his wife go through have clouded his judgment. His fears are rational but at times exaggerated and have crossed over into his responses to S's comparatively modest expressions of her faith, which has been experienced by S as hurtful.
92. F told me how difficult he found it that S did not want to hug him. He appeared baffled by this and told me of other children and older teenagers within his family network who were quite happy to hug him, with S being the exception. F did not seem to appreciate that every

teenager is different, or that it is quite developmentally normal for a teenager to reject physical contact at times, as they go through the process of individuation. He told me that he had changed his approach so that he now asked S 'Do I get a hug today then?' at the end of contact, and he did not think this would inadvertently place S under pressure. F did express some openness to attending a course about parenting teenagers, which is encouraging.

93. I do not think that F has fully absorbed or appreciated how S has felt about his words and responses to her clearly expressed wishes and preferences have not always made her feel heard and respected. Some of his evidence suggested that he had become so focused on the risks that he had been distracted from seeing S's own words in black and white in the reports telling him what made her uncomfortable or unhappy and that he was pushing her away. F was in my view quite dismissive of suggestions about how he might be creative in finding ways to connect with S and to step into her world by attending cultural events together and reluctant to take the initiative in finding out more about the reality of Islamic life for fear of encountering extreme or intolerant beliefs (as he has done in the past).
94. I was struck by F's evidence in response to the mother's criticism of him for not feeding S on the evening when she attends [one of her local regular activities]. It seemed to me that both parents expected the other to feed S, and in part the issue was their failure to communicate about this. F told me he provided snacks or a meal deal before the session, but at this time S was rarely hungry, and he was clearly expecting her mother to feed her when she arrived home after 9pm. Small gestures such as preparing or purchasing a halal meal for her would not only ensure S was not hungry, it would send a powerful signal to S that F was sensitive to her needs and respectful of her beliefs.
95. Having been told by M that she had not troubled to tell F about the proposal for a move of school locally, I found that F was entirely reasonable about the idea, and this clearly demonstrates his ability to be open minded and child focused. I am confident that if S expresses a clear and settled wish to move to the school in [town] F would not stand in the way of this. One can only wonder whether the parties could have agreed a compromise on all matters between themselves if only there had been earlier and more effective communication and issues around the risks associated with S in particular had not diverted attention.
96. F was I thought, a frank witness. He told me candidly about his worries and fears for S. In response to a question about whether he 'catastrophises' he said:

**Family Court approved Judgment**

Anonymised judgment for publication 28 February 2023,  
Neutral Citation: [2022] EWFC 186 (B)

*'I don't think have a habit of that. But I take the point as a concerned father completely losing control over my daughter watching her disappear off into the distance. I don't know where she is – I will lose track completely. I'm just a concerned dad she is beautiful. I worry about her. It may be a weakness in me more than others. In my mind my fears get grown out of all proportion when you don't know when what is going on. I may be a bit too worried about my beautiful girl. I Don't want to let her go and develop in [S]. Q – You don't want to lose her? A – it's not that I don't want to lose her indefinitely. I'm protective of her. I see her moving into a situation that has potential to be hostile. Q – think you are overprotective? It could be worse the other way. I make no apologies. It is better than not caring at all...I am a worrier.'*

97. In my view this fear is genuine, and deeply felt. It is both the fear any parent experiences when their child starts to become independent (developmental), that any parent experiences when their household splits and the child moves to live elsewhere and the very specific fear borne of what F knows has happened to his wife in the past. I do not think the concerns raised by him have been fabricated or exaggerated in order to control M as she has sometimes suggested to be the case.
98. My impression is that F has had a tendency to be more passive and to avoid confrontation, and M has a tendency to wish to forge ahead and assert her independence, which at times in this relationship and after its ending has led to her act unilaterally. Quite apart from the fact that it is her legal responsibility to ensure that F is informed and consulted about decisions for S, the sense that F has of being excluded from S's life and decisions about her clearly increases his own fears and anxiety, which is not helpful to the family dynamic.

**The guardian**

99. In her oral evidence, the Guardian maintained her position that she did not support the move, partly due to the risk of honour-based abuse or forced marriage (coupled with the fact that the mother had not yet undertaken counselling), but also partly due to the impact upon S's relationship with her father. She was not particularly troubled by the lack of detailed information about the plan, considering this an inevitability given that the court had not made a decision. However, she did acknowledge the plans were 'contingent on properties being available, funds being sorted and [M's evidence] didn't fill me with confidence that it's going to be straightforward to move into the next property, and S needs a space of her own and to know where she is going to be.'



100. The Guardian was open to the idea of a move further down the line, once the counselling had been undertaken and S reached a natural break point in her education, such as the end of her GCSEs. However, as this suggestion was first made in cross examination she fairly indicated she thought it would be presumptuous of her to offer any strong view on it in the absence of S's thoughts and that this was something the parents were capable of discussing between themselves.
101. The Guardian considered that the evidence of Dr X was helpful in understanding the nature and level of risk the maternal family might pose. She maintained her recommendations to relax the PSO to allow some additional periods of time to be spent with the maternal family, but did not think that unrestricted quantities of time should be permitted. There was some emphasis on the risk of 'immersion' in harmful cultural practices, based upon Dr X's evidence.
102. Asked about whether there was a risk S would be angry or resentful towards her father if she was not permitted to move to [town] the Guardian told me:
- 'there is potential she will view it as negative on her father, but she has also said she doesn't mind where she lives – I think she has said that because she doesn't want to upset either parent....we are making the decision here – or the judge is making the decision. It isn't his decision and I feel that we can explain that to S well. She will possibly feel some resentment but F has been consistent in sticking by S when she has been having difficult feelings around him and I feel confident they can work through those things.'
103. The Guardian had no strong views about who should hold the passport (and hearing that it had expired she considered it should not be renewed without both parents' consent). She did not think a FMPO was needed. She agreed that an order should prevent travel to Bangladesh, which S did not object to.
104. Asked about whether the letter to the judge written by S was evidence of maternal influence leading her to change her mind, the guardian did not wish to be drawn beyond the view expressed in her report, saying that 'I still feel she is genuinely open to staying or moving as long as she is with mum. I've said in my report its difficult to know what she would be saying without the influence of her loyalty to her mum in relation to staying or going. I think it's quite difficult for her to know herself or anyone else who talks to her to know what deep down she would prefer'.

105. The Guardian had not been able to obtain S's views on the proposal to move school locally, but noted that S's views about schooling had changed over time. In principle, she did not see why the family could not agree this move if it were in line with S's wishes.
106. The Guardian did not think any child arrangements order relating to contact was required if S were to live locally, but if S were to move to [town] she considered an order would be required – providing for alternate weekends with some flexibility. She considered travel costs and burden of travelling should be shared. She did not think S would take up video call contact if she were to live at distance from her father, and F would in any event struggle with this. She concurred with Dr X that regular contact between S and her father (and her local friends) was a protective factor that would counter any risk of immersion in harmful cultural practices, as well as being important for S in its own right.
107. The Guardian told me S was expecting her pets to travel with her to her new home and she would be disappointed if this were not the case.
108. The Guardian told me it would be 'terrible' if after concluding these proceedings there were further proceedings relating to S's schooling.
109. Although it had originally been anticipated that the psychological report would be fuller, the Guardian did not think a full psychological assessment was now necessary.
110. The Guardian considered S would wish to read the judgment, and agreed to take her through it. She also considered a letter explaining my decision would be helpful.

### **Analysis and conclusions**

111. I have considered carefully the evidence I have read and heard about M's first marriage. As regards the marriage itself, it seems clear that M was a passive participant in the process and was not fully informed or engaged with that process. There is no dispute that it was subsequently an abusive and traumatising relationship and that M found it difficult to leave, and the act of doing so caused some substantial difficulties subsequently in her relationship with her family. M was clear in her evidence that her parents did not intend to do her wrong or cause her harm in arranging the marriage for her, and I have no reason to doubt that - but it seems to me that Dr X's description of process whereby an individual is so immersed in a traditional culture that they do not see the influence being brought to bear upon them

through cultural expectations, and so that they feel they have agreed or at least gone along with a decision that in reality has been made for them is apt to describe the situation for M. There is no suggestion that M was subjected to threat or physical force by them, and it may well have been that the removal of her glasses was not designed to disempower her (M told me it was done by the ladies sorting out her makeup because of the stigma associated with any sort of visible disability or aid), but clearly the *effect* was to further disengage her from the process at a time when she was both conditioned to be accepting of the plans being made for her and to view them as benign, and was at a vulnerable moment in her life. I think Dr X is right to describe the marriage as a 'forced' marriage'. I think that the explanation for the development of M's evidence on these issues is that M is still in a process of coming to terms with her formal acceptance that it fits that definition, and she still holds herself at least partly responsible for it and for the consequences that flow, when in reality she was not to blame for the poor decisions made on her behalf.

112. It is important to say that no party has suggested that M herself would instigate or arrange a forced marriage for her daughter. I agree that is not an issue in this case. The risk contended for (to the extent there is one) is that such a marriage would be arranged by others and M would be herself coerced to allow it to happen, perhaps without even realising she was being coerced. Similarly with spiritual or honour-based abuse, M is not the source of risk, the question is the extent to which she can protect S from exposure to harm emanating from others.
113. The mere fact that M was, several decades ago, subjected to a forced and subsequently abusive marriage is not in itself confirmation that her daughter is at the same risk. The fear that she might be is to an extent understandable, because forced marriage is a grave violation of rights, but I have to deal with this case on the evidence presented to me, taken in light of the expertise of Dr X on how collectivist cultures of the sort that M's family were members of can operate.
114. I have considered whether or not I should rely upon Dr X's evidence given the limitations of it that I have set out above, including the fact that the full analysis of risk was only elicited in oral evidence. I have concluded that, taken in conjunction with the body of other evidence in this case, and if treated with care, I can and should rely upon that part of the evidence which falls squarely within Dr X's area of expertise, in order to inform my own assessment of risk.

115. M was raised in the 1970s and 80s by two evidently quite traditional Bengali parents who were (I believe) first generation immigrants to this country. S has been raised as a dual heritage child, by parents born and raised in the UK, with moderate religious views, at a time when diverse views and experiences are readily accessible to any child through social media. S's main carer and an important role model has been her mother – a survivor of trauma who is intelligent and independent, employed and who has lived with and married a white Christian man. Moreover, S is a young woman who knows about honour-based abuse and forced marriage and that it is now considered harmful, by virtue of her involvement in these proceedings and her knowledge of her mother's experiences.
116. M's father is now deceased. She tells me that her mother is not interested in arranging marriages for family members (and has recently told a nephew who sought her assistance to go and find a girlfriend for himself). No party has sought an assessment of the mother, the brother or sister and this evidence is in effect unchallenged. From M's evidence it seems unlikely that her mother fully appreciates or accepts that the marriage was forced. But there is no evidence of any attempts to arrange marriages of other children or grandchildren in the subsequent several decades, and no evidence of any expressed wish to do so for S. It would be inappropriate to make any specific findings with regard to any specific family member's current motivation, beliefs, or likely future actions towards S beyond what I have said here.
117. Notwithstanding the continuing vulnerabilities of M that arise from her traumatic experiences and her continuing struggle to understand and come to terms with her marriage as forced, in my view M is a strong advocate for S, and wishes to ensure she meets her potential as an independent woman including in her education and career. I agree with Dr X that the risks of S being subjected to forced marriage or honour-based / spiritual abuse as a result of a move to [town] or at all are minimal. There is not the sort of real or immediate risk of forced marriage that would come close to justifying a FMPO, and were the s8 prohibition on travel to Bangladesh not agreed I would have had to consider whether it was a proportionate interference with S's rights.
118. Specifically in relation to forced marriage, given the parties' agreement that a PSO should remain in place vis à vis travel to Bangladesh (S is clear she has no plans to travel there in the near future anyway), and given that S's passport has expired and the parents agree not to renew it without both of their consent I think that the risk of forced marriage is negligible (no party has suggested it would be carried out in the UK).

119. There is no suggestion of any honour-based abuse in the form of physical violence or force by the maternal family towards M, and there has been no suggestion that there is any risk to S of honour based *violence* (as opposed to other forms of honour based abuse).
120. As regards more insidious forms of cultural pressure, abuse, shaming etc – I think that M is well able to protect her daughter from these influences. I do not think she would tolerate a repeat of now historic remarks that have previously been made by family members, denigrating S’s mixed heritage. I am less confident about her motivation to consistently challenge negative remarks by the maternal grandmother about F and his role in S’s life – although M reports responding to her mother’s weary remark ‘why do you help him?’ with a reference to her Islamic duty towards F as S’s father, it is not a duty I think she is enthusiastic in embracing.
121. I am sure that Dr X is right that some form of ‘culturally competent’ counselling would help boost M’s own wellbeing and resilience, and that in turn would benefit S and enhance her ability to maintain her own boundaries where necessary to protect S. I think that M should prioritise undertaking the work recommended. I do not need a diagnosis to be able to see the sense in that recommendation, given the obvious trauma M has suffered, and that continue to impact her in many ways, whether as symptoms of a condition such as PTSD or not. That work is not for me to order, however.
122. I do not think however, that a move to [town] would in and of itself amount to ‘immersion’ of the sort that Dr X hypothesised could lead to the sort of insidious coercive and shaming influence that has the potential to be seriously harmful. I am sure there may be moments where S’s views, lifestyle and aspirations clash with the views of the more traditional members of her family, there may even be disputes about those matters. But clashes and tensions between one generation and the next are not unique to South Asian cultures or to Muslim families – and if S is to come to connect with her South Asian, Bengali, Muslim heritage (as is her right and will be to her benefit) then she will need to be able to experience and understand even its less tolerant or palatable sides. This is inevitably something that S will have to deal with. In her mother she has a role model of someone who has demonstrated since leaving her first marriage that it is possible to do so whilst maintaining family connections and faith.
123. Even if S is living in S she would not be ‘immersed’ in the sense that she would be robbed of other influences or unable to see alternative perspectives. She would be living in an urban,

diverse community, with a moderate Muslim carer, with (hopefully) regular contact to her white Christian father, spending regular time in her rural former home with her friends in that location, and connected still to her various activities. Even though I think access to the maternal aunt and grandmother's home is more easy than the mother suggested to me in evidence, the likelihood is that S will be focused on her academic studies and activities and will be spending shorter, less intense bursts of time with her maternal family than she does presently where she only now sees them for entire weekends, when she is staying at her grandmother's home. I think that the frequency of contact will increase but the overall intensity or 'immersion level' will not materially rise.

124. In any event do not consider the low risk of honour based spiritual abuse is a good reason *in itself* to prevent the mother from moving to S with S.
125. However, the task I have is to look at S's welfare overall and not just at one factor. I look at that through the prism of the welfare checklist. Some of the factors have been considered in preceding paragraphs and so I do not rehearse them slavishly, though I have considered them all.
126. S's wishes and feelings are of great importance. But, even though S is 14 and very articulate, they are not determinative. I am mindful of the fact that S has changed her mind across the course of these proceedings, and that she is now saying that she doesn't mind where she lives as long as it is with her mother. She also says she wishes to have regular contact with her father. Whatever decision I make S's main priority will be secured: she will live with her mother. In my view, if I order that the PSO should remain in place so that S continues to live in [county], S will accept that decision. I note that even whilst expressing a preference to live in [town] in line with her mother's wishes, S was quite content to allow the Guardian to advocate on her behalf rather than seeking to exercise the option of separate representation, and I think that this signals that that apart from receiving confirmation that she will continue to live with her mum, the next most important thing for S is that she has a decision and can get on with her life.
127. I do not know S's wishes specifically concerning the other school proposal. However, I note that IF S's wishes are confirmed to be that she wishes to move to this school her parents are likely to make those arrangements for her by agreement. I think this would greatly reduce any disappointment for S, given that one of the initial expressed reasons for S wishing to move

was to be able to attend a 'better school' where she was more challenged. I think the risk of S having an adverse reaction to the court deciding she should stay put is further minimised if schooling can be agreed. Of course, it may be that if she is to stay locally, S will revert to the view that she wishes to stay at her current school.

128. In the event that S were to move to [town] it appears that the school she would attend is now agreed between her parents (as at the end of this hearing), and it is a school that is consistent with S's expressed wishes.
129. Overall, whichever location I consider is best for S, I think it will meet her priority wishes concerning living with her mum, knowing what is going to happen, and meeting her educational needs and aspirations.
130. That deals with educational needs insofar as I am able or need to determine them. As regards emotional needs, S has a need for closeness with her mother, and benefits from living with her as the primary care giver. She also has a vital need to maintain regular contact with her father in order to continue the important work of repairing their strained relationship. In the event of a move S will lose the important weekday contact with her father, which as the Guardian says, are currently performing an important function in allowing S and her father to reconnect in a less intense way than large blocks of uninterrupted contact offer. Any arrangement which minimised or makes more cumbersome the maintaining of regular contact between S and her father will have potential not to meet her emotional needs. I could try and secure S's contact with her father by making an order for contact, but in itself that may not be effective, and it could even be counterproductive. I am concerned that if S were to move to [town] her relationship with her father would potentially be diminished. It is all too easy to imagine S being too tired, too busy to travel to contact, or to be dissuaded from going to the next contact if she and her father meet a bump in the road. I am worried that M might not see or emphasise the importance of contact on those times when S is reluctant and flexible contact would turn into infrequent contact – or if undertaken under duress, it could be contact that S resents. I think S would potentially become more isolated from her father, more so given my concerns about his own continuing anxieties about engaging with S's world and what I perceive as his nervousness to meet her on her own turf by travelling up to [town] to see her.

131. Whilst much emphasis has been placed upon the importance of contact as a protective factor to reduce the risk of honour-based abuse, far more important for me is the importance of the relationship in its own right. S is a mixed heritage young woman. Her father is and has been an important part of her life and his white British Christian cultural values have been and are an important part of her heritage, as is her currently more rural way of life, her engagement with animals and woodworking. For S to flourish as a young woman she must remain connected to both sides of her identity and she must be given an opportunity over time to reconcile herself to the two very different but equally important relationships she has with each of her parents.
132. As regards the likely impact of any change of circumstances, it is now clear that on any basis there is yet more change to come for S. Even if she remains local her mother proposes (reasonably) to move a short distance to be closer to S's school (whether that is the current one or the proposed alternative). There is no dispute about that being a sensible plan. It seems likely that even if she does not move any great distance she will also move school – and if that happens it will need to happen soon, before S chooses her options and in readiness to begin her GCSEs next September.
133. However, the nature and extent of change in the event she moves to S will be considerably more wide ranging. S will most certainly have to undergo two house moves, a change of school and a change of contact arrangements. Although the mother now proposes to postpone the second house move until the end of GCSEs there is considerable uncertainty as to the timing of the first move, the nature of the accommodation, the mother's working arrangements or income, and whether S can take her pets. I think F's fears had run away with him slightly when he told me S would be at high risk of bullying and would struggle to make friends. She is a shy and sensitive young woman but she is also socially capable. I have no doubt she would adapt to a new school, but equally, a move to a much larger more urban school in an entirely unfamiliar area half way through a school year where she knows nobody is a somewhat different prospect to a move to a school slightly down the road in a familiar area and where S reportedly does know one or two of the pupils.
134. I share the Guardian's concern that the mother's plans may not go off as smoothly as she anticipates. I think that there could be considerable delay and disruption if a move went ahead now. I am also concerned that based on what I have been told the mother's plans may not be financially viable and she may find that she is unable to realise them or that she is forced to



make alternative plans if she is unable to make ends meet. Those concerns are allayed somewhat knowing that the rental property will continue to be let and to provide rental income for two years, but they are not completely dissipated.

135. I have dealt with risk of harm above, but it is important to note the harmful impact upon S of the separation of her parents, and more particularly the ensuing conflict. Whilst it was most acute when the parents were separated but living in the same household the continuation of this litigation has exposed S to ongoing adult issues, and I have no doubt that her wavering expressed wishes are an indicator of how conflicted she has at times felt. S is rightly loyal to her mother and protective of her, and as M acknowledged, has seen how upset her mother has been at the ongoing impact of proceedings and the limbo everyone has been in, and at times this will have made her resentful of her father. By making final orders I hope and expect that this aspect of ongoing harm will abate.
136. Finally, although they do not neatly fall under any one of the checklist headings, there are two further points.
137. I do think that it is important that the court makes a decision that recognises the reality of the personalities and vulnerabilities of each of the parents. One such reality is that F is genuinely anxious about his daughter and is doing his best to try and keep her safe. S and her mother need to understand that worrying comes from a good place even when it is frustrating. My decision must not be led by F's anxieties of course, but I do think that the dynamics between the three members of this now separated family unit will not be assisted if F's anxieties are unnecessarily heightened. If S lives in S and her father is distanced from her I think that has potential to create a spiral where the father's worries get the better of him and feed the tension between him and S and the mother. Whatever decision I make must balance the autonomy of the mother and S and the real-life impact of the father's understandable sense of loss and anxiety.
138. M's wish to move to [town] is complicated but understandable. Both parties have found the separation and the subsequent proceedings very bruising. I am sure M is motivated (consciously or otherwise) by a wish to make a separate life for herself, and a fresh start. That is a legitimate wish. But my overarching priority has to be S, and I think that whilst M will be disappointed if she cannot move, I do think she will be able to adapt to my decision and move on with her life. I hope M will not take it the wrong way if I say that my impression is that she

may find that the conclusion of these proceedings as liberating as putting greater physical distance between her and F. They have not been helpful for any one of the three members of this family.

139. My conclusion is, having taken into account all of these factors, is that the arrangement which best meets S's interests is for her to remain living in the local area with her mother, and for there to be some further relaxation of the restrictions on the mother's and S's ability to travel to [town] for visits.
140. I have considered whether or not I should adopt the guardian's proposal for a continuation of some restriction on visits to S and have reached the conclusion that in view of my assessment of the risks associated with the maternal family I should not. In reality, S will be spending alternate weekends with her father in any event, and I anticipate half of the holidays. The guardian suggests S could spend up to two blocks of seven nights in the summer holidays, additional nights over Eid and up to four nights in half term in addition to the current monthly quota of visits. I do not think there is any particular magic in the Guardian's proposed number of nights. No party suggests that these quite substantial periods of time would give rise to an unacceptable risk and I cannot see any need or advantage to the residual restriction over and above the natural limit that will flow from S's other commitments to spend time at school and with her father (and no doubt to go and do activities independently with her mother from time to time).
141. The PSO will therefore be amended to provide simply that the mother must ensure that S resides in [county] and she must not travel to Bangladesh. I make clear that I consider the welfare justification for the prohibition on travel to Bangladesh is based upon the benefit it will offer to S through the reduction of F's anxiety, as much as it is from the objective risk of forced marriage.
142. It has been said that I need not make an order for contact in the event that S remains living locally. I am mindful that no order has been necessary to date, however I have taken the view that I should make some form of order in respect of contact, in order to mark the continuing priority of it. It would be unhelpful to dictate the terms of the weekday contact but my making no order about that should not be taken as any indication that the court does not endorse this contact. But I do consider that it would be appropriate in the circumstances of this case to direct that S will spend time with her father on alternate weekends, and for approximately

half the holidays (I do not propose to be more prescriptive). My order will record the obvious importance of S's wishes and feelings in making any adjustments to the precise arrangements for contact, and I would expect the parents to be flexible of S's other priorities as she matures, but also to enforce the importance for S of spending time with each of her parents.

143. I agree that S's passport, if renewed should be held by M. It should be provided to the father in the event of a foreign holiday and returned when S returns to her mother's care. Both parents should be permitted to take S on holiday (save for Bangladesh) on condition that they provide dates, contact details and return travel confirmations in advance.
144. I will make no specific order in relation to S's schooling, trusting that the parents can and will now be able to resolve these matters between them. In due course, if M were to consider a move to [town] at the point when S completes her GCSEs she should engage in early and open dialogue with F about her proposals.
145. In future it is crucial that M communicates with F about matters concerning S rather than assuming he will not engage or will not listen. That is partly because it is her responsibility to do so as a parent sharing parental responsibility with F. But it also because that communication will benefit S by promoting good planning and agreement about suitable arrangements and support for her over time, and by helping F to feel reassured rather than worrying. Equally, it is important that F engages with communication and listens to what M and S are telling him, even if it is uncomfortable or hurtful.
146. As S will turn 16 early in her GCSE year and given the importance of her remaining settled in her schooling until that is complete my PSO regarding living arrangements and travel to Bangladesh will run until the conclusion of July in the year S completes her GCSEs (Which by my calculation is 2025). In my view the circumstances of this case are exceptional so as to justify the exercise of the discretion to impose an order lasting beyond the child's 16<sup>th</sup> birthday (Although arguably exceptionality is not required due to the effect of s9(7) Children Act 1989, and given that I am merely varying rather than making a s8 order).
147. In the event of any further application concerning S, a rule 16.4 Guardian should be appointed upon issue and the matter listed before me if possible. A copy of my judgment should be appended to any such application.

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148. I conclude by acknowledging that parts of this judgment will be difficult (for different reasons) for each of the three family members to read. There are ways in which each member of this family has said and done things which has been unintentionally hurtful to the others. I encourage each of them to try their hardest to put themselves in the shoes of the other and to help one another to move forwards.

**Publication / anonymisation**

149. I have considered whether or not to publish this judgment and concluded that it would be appropriate to do so, providing that certain details are redacted to protect the identity of the family. I have considered that removal of the precise geographical location where the family live and the names of the school and proposed schools, along with the removal of some details of particular extra-curricular activities would be sufficient to balance the competing priorities of privacy and public interest in the publication of judgments. I do not see any reason for anonymising any professional. I have heard briefly from the parties on these issue and...(to be completed / adjusted subject to any submissions received. In the first instance I propose to refer to '[county]' and '[x county]' or 'a town in [x county]').

150. That is my judgment.

**Post script 28 February 2023**

151. My reasons for publication of this judgment, for the approach I have taken to anonymisation of it and for the delay in doing so are set out in a separate judgment (M v F & Anor [2023] EWFC 53).

**Annex - letter**

Dear S,

Thank you for coming to meet me earlier this month. I told you when we met that I would listen to what everyone had to say and do my best to make a good decision for you.

I think it's really important that you understand some things that your mum and dad were able to agree and that I have approved. Firstly, everyone agreed that you should carry on living with your mum, which I know is your wish. Secondly, that you should be allowed to travel abroad, except to Bangladesh for now (although I know you aren't planning to go there at the moment anyway).

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I have thought very hard about what you have told me through [Guardian and solicitors' first names], about everything your mum and dad told me, and about what Dr X and [Guardian] themselves told me. I have decided that it is better for you to carry on living in [county] until you have finished your GCSEs and that you should not go to live in [town]. Your mum has told me about [X] school and your dad has told me that he would consider a move to that school if you felt it would be right for you. That is something that I think the three of you can talk about and agree between yourselves.

I have decided that you and your mum should be able to go and visit Nanu and your auntie more often, but I also think it's really important that you and your dad carry on spending time together regularly, working things through and learning to understand one another a bit better.

I have written a judgment explaining in more detail about the evidence I've heard and why I've decided these things, and I know that [Guardian] will go through this with you if you want to understand more about it (or you can keep it to read in the future, if you prefer). I've tried to summarise in this letter the things I know are most important to you.

I think it's been really hard for you over the last two years, knowing that your mum and dad couldn't agree where you should live, and I'm pleased to be able to make a decision so that uncertainty can stop and you can focus on getting on with your studies and spending time with the people who are important to you, including your pets. Nobody's parents get things right all the time, but I do think your parents have, in their own way, both been doing their best for you.

Both your parents are rightly very proud of you, and I am sure that you have a great future ahead of you.

Kind regards,

Recorder Reed (the judge)