



Neutral Citation Number: [2020] EWFC 48

Case No: FD13P01589

IN THE FAMILY COURT AT THE ROYAL COURTS OF JUSTICE
IN THE MATTER OF THE CHILDREN ACT 1989
IN THE MATTER OF M (A Child – born 7th October 2011)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17th July 2020

Before:

MS JUSTICE RUSSELL

Between:

MY

- and -

FY

Applicant

Respondent

Alex Verdan QC (instructed by Payne Hicks Beach) for the Applicant
Piers Pressdee QC (instructed by Grosvenor Law) for the Respondent

Hearing dates: 24th & 25th February 2020

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

MS JUSTICE RUSSELL

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

Covid-19 Protocol: This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to Bailii.

The date and time for hand-down is deemed to be 10:00 am on Friday 17 July 2020.

The Honourable Ms Justice Russell DBE:

Introduction

1. This, my third judgment, in long running private law Children Act (CA) 1989 proceedings, concerns an eight-year-old boy M, the youngest of the three sons of MY (their mother and the Applicant) and FY (their father and the Respondent). Previous proceedings had also concerned the older two boys (L and K). K, L and M have dual British and Saudi Arabian nationality: they and their parents come from prominent and wealthy Saudi Arabian families. As the oldest K is now a young adult (he was born 15th July 2000), and the middle child L, who was born 19th December 2002, is now 17 years old, neither are the subject of these proceedings, but the youngest M, who was born 7th October 2011, and is still only a child of eight, remains the subject of CA 1989 applications concerning the time he is to spend with his father FY.
2. K, L and M all continue live with their mother MY in England following the orders made by this court dating back to 2013. The previous judgment dated 6th April 2016 was handed down after hearing an application by FY for contact: see *FY v MY & Ors* [2016] EWFC 16 (23rd March 2016). The consequential orders made in 2016 included an order that there was to be no direct contact between the children and their father, until therapeutic work had been undertaken by FY, as had been recommended by the court appointed expert, and an order pursuant to section 91(14) of the Children Act 1989 which was to remain in force until 21st January 2018. On 9th September 2016, the Court of Appeal dismissed an appeal by FY against that order.
3. Following the recommendations of the expert who reported to the court in 2016, FY had undertaken some work at the Anna Freud Centre before 1st February 2019 when an independent social worker engaged by both parents (and approved by the court) Vivien Kenley provided a report which set out recommendations for L's and M's contact with their father which were duly followed by the parties and approved by this court in an order dated 14th February 2019. This judgment follows the hearing which took place at the end of February 2020 and was for the court to hear evidence and decide what orders should be made on MY's CA 1989 application dated 9th October 2019 to vary the existing child arrangements order so that M's time with FY reverts to being supervised contact; and FY's cross-application dated 16th October 2019 to enforce the existing child arrangements order and for overnight and holiday contact. The contact which had taken place was interrupted by an incident which took place on 30th September 2019 involving FY and all three of his sons in or just outside the lobby of the apartment building in which MY and her children live. MY was not present at the time.
4. The court is required to consider the events of 30th September 2019 and to conclude what took place on the evidence placed before it by the parties. The facts that are decided by the court will form the basis for future contact between M and his father, and the further issues for determination at this hearing have been identified by counsel as whether FY breached his undertakings to the court as to his conduct during contact and whether MY failed to comply with the contact orders without reasonable excuse. The applications were considered by the court on 13th December 2019 when directions were made for Ms Kenley to file a further welfare report and the parties to file further statements.
5. The substantive order of this court is dated 14th February 2019. MY was directed to make M available to spend time with FY in London once a fortnight initially supervised and supported by Ms Kenley and then unsupervised; only four unsupervised sessions

took place. Ms Kenley was to review the arrangements and send the parties a further report with her recommendations. All contact arrangements were contingent on FY's undertakings to the court which included his promises to the court not to raise his voice or use any form of physical chastisement during his contact with the children. The order expressly set out that FY understood that if he breached his undertakings the court would have the power to direct that contact return to being supervised or suspend it altogether. Any further applications were reserved to me with permission to either party to apply urgently on notice in the event of any breach. It is a matter of undisputed fact that MY had fully complied with the order until the incident on 30th September.

6. As I have said K and L are not the subject of these proceedings, nonetheless as K is a vulnerable young adult and L has his own difficulties, I remain concerned for their welfare not least as the older siblings of M, whose welfare is my paramount concern. K is over nineteen years old and has special needs as he has difficulty with auditory functioning, visualising, and verbalising, and has some autistic spectrum problems in social functioning. At present K makes his own arrangements to see FY but this has not been without its problems. K is still in full-time education attending Sixth Form College where he is retaking his GCSEs. L is now seventeen and he attends a day school in London. He has been diagnosed with ADHD and PTSD and regularly sees a psychologist in London. L's dysfunctional and fractured relationship with FY remains very troubled and troubling. L last had specifically arranged contact with FY in 2018 and his current position is that does not want to see his father.
7. M is still at primary school and he attends a day prep school in central London. After contact was re-established M enjoyed seeing FY and the contact largely went well, until the incident on 30th September 2019. Whatever occurred on 30th September (and I shall return to the incidents and events of that day below), it is clear that M is now confused and at best has mixed feelings about his father: FY accepts that M does not want to see him and has refused to do so. M, too, is seeing a child psychologist.

Background

8. For a comprehensive background to this case, reference should be made to my previous judgment of 2016 and to the prior judgment dated 19th December 2013. K, L and M have continued to live with their mother MY in England and have done so since 2012. Their father FY has not lived with them since December 2013. Before the judgment was handed down in 2016 the parties had separated and divorced. There were subsequently contested financial relief proceedings which MY successfully appealed. At the time of writing this judgment FY had remarried, divorced for a second time, and now has a young daughter (X) who lives with him in Dubai. K, L and M are aware of X but only K has met her. X has very limited contact with her mother who lives in London.
9. In my first judgment in 2013, the reasons for refusing FY's application to relocate with K, L and M to Dubai were set out, and I made findings in respect of his abusive behaviour towards MY and the children and concluded that FY had demonstrated the controlling, abusive and manipulative behaviour as described in complaints made by both K and L who had also complained about their father's aggressive and violent behaviour towards them and his inability to control his temper. Then, as now, the court recognises that this father loves his sons and that they love their father but sadly his contact with them has proved to be problematic and his relationship with them, and with L in particular, has been troubled and fractured. Sadly, as became plain after hearing his oral evidence, FY appeared to lay the blame for this dislocation and

estrangement largely at the door of his teenage son L. As I have said above, after the hearing in 2013 contact was agreed between both parents, and notwithstanding the frequent difficulties that arose MY consistently supported contact. Unfortunately, there continued to be difficulties with contact from the outset and it was suspended in the months before the hearing took place in 2016 because of the risks to the wellbeing of the children. As a result the boys did not see their father in face to face contact for the seven months prior to that trial. FY's contact with M did not resume until 2019.

10. Ms Kenley's report containing her recommendations for the resumption of M's contact with his father was dated 1st February 2019; the court order, in which the court was pleased to encompass those recommendations, was dated 14th February 2020. Ms Kenley supported and observed contact and in her addendum report of 18th July 2019 she observed that the reports from FY, MY and M about M's contact with his father were positive. The two visits that she had partially observed were also positive. MY was agreeable to an increase in contact when FY visited the UK in addition to collecting M from his school at least once during the week. MY had no issue about him attending M's school functions. Nonetheless Ms Kenley considered that, at that time, it was too soon for M to go on holiday overseas with his father as FY had requested. M had told Ms Kenley that he did not want to stay overnight at his father's home. It was her view that overnight contact with FY would need to be built up gradually, observing that M had not slept away from home on his own. MY was prepared to consider M having overnight contact with his father in the future as long as his nanny accompanied him, provided as the contact continued to be positive.
11. Ms Kenley said that in her opinion it was premature to consider M spending time overseas with FY and with a younger sister he does not know, even with his older brother K present. I pause to observe that although there are benefits for M in having the familiar presence of his older brother during contact with FY it is categorically not the responsibility of this vulnerable young man, or indeed any sibling to support contact or to ensure that it goes smoothly, that burden lies with the child's parent, thus the suggestion that M should be accompanied by his nanny. Ms Kenley went on to say that MY agreed with extending the duration of FY's contact and to his collecting M from school. In the opinion of Ms Kenley, about six hours with FY on one or two days of FY's monthly visits [to the UK] was appropriate and that MY was amenable to this recommendation. Indeed, the evidence before the court was clear, including that of Ms Kenley, that although FY assiduously took up the contact that had been arranged he often if not invariably reduced the length of time M spent with him. There is no criticism of this, but it is an indication of the length of contact that is best managed by father and son and is evidence in support of Ms Kenley's recommendations.
12. During the school summer holidays of 2019 MY travelled with all her children to Saudi Arabia to visit their extended family. On their return to London the boys resumed their schooling and at the end of September FY visited London. He spent time with M on the 29th September 2019 without incident. On the morning of the 30th September 2019 FY took M to school without incident and later that day he collected M and took him home, after which he met up with K and took him to the barber's. While he was driving FY had a call on FaceTime from L, which K answered as his father was driving. M joined in the call and it became apparent that FY would be dropping K off at their apartment block.
13. It was in the lobby and outside of the apartment building that the incident and events took place: MY was not at home so her version of events is based on what she was told

by her sons and their reaction along with the CCTV imagery retrieved from cameras inside the apartment block lobby and those with views of the corner of the two roads on which the building is situated. FY was there, of course, and his version of events differs considerably from what MY was told by K, L and M. The CCTV images were watched in court in the presence of the parties and Ms Kenley. Both parties filed statements in respect of these events and the circumstances surrounding them.

14. Just before ten o'clock [21.54] on the night of 30th September MY send FY a text “[FY] I’m afraid you cannot take [M] to school tomorrow or pick him up. What happened today was not acceptable and has left [M] petrified. And [L] distraught.” From the evidence of MY and Ms Kenley it would appear that MY texted Ms Kenley that night and spoke to her the following day on 1st October 2019. Ms Kenley told me in her oral evidence that she had emphasised the importance of keeping M safe. Ms Kenley was clearly concerned about M as she followed up with a telephone call to MY on 3rd October 2019 to enquire about M’s welfare. MY said that M seemed to want to see FY on his up-coming birthday on 7th October as FY had offered to buy M presents (although he had already bought a lot the previous weekend) so that MY had asked M how he would feel if Ms Kenley was there and M’s “immediate response was ‘yes, yes please’.”
15. There then followed correspondence between the parties’ solicitors starting with a letter from MY’s solicitor on 2nd October 2019 saying that contact would be suspended “at least while the boys have an opportunity to come to terms with what happened, but also pending your client’s response to this correspondence”. The letter contained the author’s account of what MY had been told by her sons. The following afternoon on 3rd October FY’s solicitor sent a letter disputing the version of events contained in the solicitor’s correspondence complaining that MY had taken the “unilateral decision to suspend contact between [M] and our client...a breach of the order dated 14 February 2019...[and] that your client does not have the power to unilaterally suspend contact.” The letter continued that FY would collect [M] after school on his eighth birthday and drop [M] off to school and pick him up from school on 8th October. It is noteworthy that the letter from FY’s solicitors contained no reassurances for M, nor did it express any concern about M or his brother L nor any acknowledgement that FY might have himself breached the terms of his undertakings to the court.
16. It is not necessary to reproduce the solicitors’ correspondence in detail; in respect of the events of 30th September 2019, it is not evidence as such and cannot be relied on in deciding what took place during that incident. The only evidence the correspondence provides is that there was a dispute between the parties both as to what had taken place and as to the consequences of those events. The tenor of the correspondence for FY’s solicitors was not in any sense conciliatory or collaborative as it was chiefly concerned with asserting that MY was in breach of court orders. MY had contacted Ms Kenley for advice, and on 4th October MY’s solicitors had written to FY’s legal representatives suggesting that Ms Kenley supervise contact with M on the day after his birthday as Ms Kenley wasn’t available on 7th October, because M was “still concerned about seeing his father, but will feel reassured by Vivien Kenley being present, and therefore, to see if matters can be moved forward, our client proposes that next week your client see [M] after school for dinner for two hours from 4 - 6 pm, to be supervised by Vivien Kenley...”.
17. FY’s case is that he spoke to M and K and that M was looking forward to seeing him and receiving his presents. FY declined to have supervised contact with M: his solicitor

wrote “*it is not for your client to unilaterally suspend contact or seek that contact revert to supervised. This is a power that only lies with the Court... Your client must now make [M] available for unsupervised contact in accordance with the Order dated 14 February 2019. Further, it is not accepted that [M] is concerned about seeing his father our client will be collecting [M] from school today at 3.45pm as agreed. He will give him his birthday present and drop him straight home thereafter. He will then collect [M] at 8.20am Tuesday morning and collect him from school at 3.45pm. These sessions will not be supervised.*”

18. On MY’s account, that afternoon M asked her if he was going to see his father that day and she explained to him that she had suggested that he do so the next day when Ms Kenley was free and able to go with him. There was a text exchange between FY and MY in which FY refused to agree to Ms Kenley supervising the following day, MY said that if FY wanted to see M that day it had to be with Ms Kenley or M did not want to go. Notwithstanding these exchanges FY went to M’s school, accompanied by K, to collect M for contact on his birthday. When M did not emerge, FY was told that MY had collected M earlier. There is no dispute that she had done so. On leaving the school FY received a voice recording from MY’s phone in which M was saying “*Baba, I want Vivien to come with us when you pick me up from school tomorrow and I can’t see you today because I don’t have time, so tomorrow would be better. Thank you.*”
19. There was at the same time a further letter from FY’s solicitors to MY’s solicitors appending a WhatsApp voicemail. The content of this communication was that MY’s “*... conduct is unacceptable, particularly in circumstances where your client is aware of the immediate dispute over contact. Your client is in breach of the Order dated 14 February 2019 and her behaviour in seeking to involve [M] in adult issues is unconscionable. Your client must desist immediately from using [M] to communicate contact arrangements or discussing matters in his presence. As arranged, our client will be collecting [M] from school at 3.45pm today to give him his birthday present and drop him home after.*” I do not intend to reproduce all the correspondence between solicitors, but I have considered it and consider that the tenor of this correspondence was unlikely to produce any child-centred agreement. The thrust of these letters was to ignore both what the child was reported as saying and the attempts to offer assistance in ensuring that contact took place by a most experienced, well respected and independent professional who had been engaged by both parties, with the approval of the court, to assist in contact.
20. MY’s solicitor responded by saying that because of the events of the previous Monday, the effects of those events on M and the subsequent responses from FY’s solicitor to the correspondence, MY could not agree to contact taking place without Ms Kenley and could not be expected to do so. The letter continued that they would be making an urgent application to the court, subject to my availability, and that Ms Kenley remained free to supervise the proposed dinner the next day. Given that Ms Kenley told me in her oral evidence (which I accept) that she had emphasised to MY the need to put M’s safety and welfare first, and that Ms Kenley had made herself available to be there so that contact could take place, I cannot and do not find that MY acted without reasonable excuse and find instead that her conduct was appropriate given the advice she received. Notwithstanding the order of this court the decisions MY took as a parent and principal carer of this young boy, at that time, were child-centred and entirely congruent with M’s welfare, and provided for an opportunity for FY to see his son in manner that would have provided reassurance to the child himself, an opportunity FY chose to refuse. M’s

subsequent distress and reluctance to see FY (of which more below) provide evidence that hers was the more appropriate response.

Legal framework

21. There is no dispute as to the relevant law in this case in which there is a statutory framework as provided for by the CA 1989. I am concerned with cross-applications in respect of child arrangements for M in respect of the time he is to spend with his father (FY). FY applies for contact to take place in England and in Dubai where he lives with his youngest child, a daughter, by his, now divorced, second wife. This court has little or no evidence before it regarding this subsequent marriage and the circumstances surrounding the divorce, nonetheless it is noteworthy that X, the child of FY's second marriage, appears to have little if any contact with her mother, who lives in London. By law my first and paramount concern is the welfare and best interest of M, thus I shall have in mind, at all times, his welfare and the checklist in s1 CA 1989 which is to be applied in all cases concerning the arrangements for children under the Act.
22. FY has accepted, albeit without accepting any responsibility for causing it, that M does not want to see him, and is refusing to go to see FY. After the events of 30th September 2019, contact resumed supervised by Ms Kenley and it was during the resumption of contact that M had refused to go to see his father. FY accepted that when contact resumes it will have to be supported or supervised by Ms Kenley, but he wants it to move on rapidly to unsupervised and then overnight contact. This is not accepted by MY, or, indeed by Ms Kenley. MY does not oppose contact but applies for it to be supervised until M is more comfortable and feels secure. MY, supported by Ms Kenley, says that overnight contact or contact overseas is premature
23. At the core of this case are the events and whether they have caused harm to M attributable to the behaviour or conduct of his father. In reaching a decision about those two inter-related issues I shall apply the civil standard of proof, which is the balance of probabilities and those principles as set out in the seminal case *Re B (Care Proceedings: Standard of Proof)* [2008] UKHL 35, [2008] 2 FLR 141, in the words of Baroness Hale, at [70] "*the standard of proof in finding the facts necessary to establish the threshold under s 31(2) or the welfare considerations in s 1 of the 1989 Act is the simple balance of probabilities, neither more nor less. Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied in determining the facts. The inherent probabilities are simply something to be taken into account, where relevant, in deciding where the truth lies.*" As both parties seek conflicting findings in respect of the events involving FY and the three boys, the burden of proof lies with each party in respect of the respective findings sought. In deciding those matters in dispute I shall consider all the evidence put before the court and, to paraphrase Dame Elizabeth Butler-Sloss P (as she then was) in *Re T* [2004] EWCA (Civ) 558, a judge is to exercise an overview of the totality of the evidence and consider the wide canvas of evidence before it.
24. I am mindful of the fact that FY's version of events is challenged by the reported description of what happened rather than direct evidence from K, L, or M. This is far from unusual in family cases; indeed, this court has had to consider similar evidence about FY's conduct in respect of his children in the past. I shall keep in mind that FY was unable to challenge what his children said, nonetheless in this instance I have been able to watch the CCTV images as part of the wider canvas. It is accepted by all parties that the incident was distressing and stressful at the time and dragged out over some 30 minutes; on any account it was not an insignificant event, and one which FY has

accepted himself could, at the very least, have been better handled by him as the only mature adult present.

The parties' cases & the evidence

25. Before turning to the parties' cases in more detail, in particular concerning the events of 30th September 2019, they need to be set in context. This case is long running and there can be little doubt that there has been substantial emotional and financial cost to the parties, and to their three sons. The court has previously made findings about the conduct of FY towards his sons and while the past must inform the decisions of the court as the most recent incident complained of cannot be considered in a vacuum, and while I am mindful of the fact that any previous findings should not prejudice me during my consideration of the facts that I am being asked decide in this instance they can be properly weighed in the balance in reaching conclusions. Thus, the previous findings made about FY are not determinative but can form part of the consideration of this court in analysing and balancing what is more likely than not to have occurred when applying the civil standard of proof, namely the balance of probability.
26. The court has had the benefit of Ms Kenley's evidence, which was largely unchallenged: FY in his oral evidence, for example, accepted the need for M to have Ms Kenley present when contact resumes regardless of any findings made one way or another. Ms Kenley is a very experienced and highly respected independent social worker with many years of accumulated knowledge and expertise both in private and public family law cases. She gave her expert opinion in a professional and measured manner in this case, as she has done so in many previous cases, and her concern was and is to put M in the centre of the court's consideration, an approach that is to be commended. In all the circumstances of this case it is appropriate to give her independent evidence considerable weight and I have listened with care to what she had to say.
27. Ms Kenley's assessment of MY's conduct and motivation is pertinent, and, as Ms Kenley alluded to in her evidence, she has had considerable experience of, and involvement in, cases concerning contact for children of separated parents, it is an assessment carried out by someone highly qualified to do so. It was Ms Kenley's firmly expressed view that MY had not and was not seeking to manipulate or frustrate her sons' contact with their father, and that Ms Kenley had found her to be remarkably relaxed and flexible about contact. When this opinion is contrasted with FY's inability to accept any real responsibility for M's reaction to contact and for L's estrangement from him, indeed the way FY put his case about L gave cause for concern as he not only implicitly but at times explicitly sought to put the blame on L, it becomes clearer whom is the more responsible parent, and who can put their child's needs first before their own hubris.
28. I accept Ms Kenley's evidence in respect of MY and have concluded that her assessment of MY as a parent is accurate. As the children's mother she has not stood in the way of contact but has always taken steps to try to ensure that it could take place safely and for the benefit of the boys. Even after the incident on the 30th September she very quickly sought to put arrangements in place so that M could see his father and feel reassured by the presence of Ms Kenley when he did so. It was FY's decision to put his own feeling and *amour propre* before an opportunity to spend some time with M.
29. As already observed, this case is concerned with M and not with his brothers, except indirectly, but M lives at home with K and L and has seen the distress and hurt caused

to his brothers by their father's behaviour towards them in the past. While K sees his father regularly, there is little doubt that he is the more biddable and amenable of the two older boys and is less likely to challenge or disobey his father. The fact is FY appears to have been unable or unwilling to build a healthy relationship with L and sees little of him. FY has chosen to take offence at the attempts made by L to stand up for himself, behaviour that is wholly predictable and understandable in any adolescent. It is more likely than not that M is affected by his brothers' relationships with FY and that will have contributed to his reluctance to see FY at all. It would be cause for concern if that were not the case, as it would belie the affectionate inter-sibling relationship that can be seen in CCTV images which starts with L and M playing together outside their home in London, with L taking a nurturing and caring role with his younger brother.

30. The evidence that I have regarding the events of 30th September 2019 came from three primary sources: FY who was present, mute CCTV images which is partial or episodic (as some of what happened between L and FY occurred out of sight) and the reported descriptions of what occurred as told to MY by her three sons. Both parties have had the considerable advantage of being represented by highly experienced leading counsel who cross-examined and challenged the evidence given by the opposing party with erudition and skill, to the very highest standard of their professional. I have read the parties' statements and heard their oral evidence and seen the CCTV images.
31. MY's case is set out in the three statements she has filed. It is her case that prior to 30th September 2019 M's contact with FY had, in general, gone well and according to plan. MY did not and does not disguise the fact that she was very concerned about the risks arising from unsupervised contact, given past events, but was prepared to try it. MY's knowledge of what occurred on 30th September 2019 came from the boys and the CCTV images, but she also heard a version of events from S, the nanny, heard from her vantage point outside their apartment above and what MY herself heard on the phone while the boys and FY were in or around his car where some of the incident took place. The events took place on the corner of two streets, where the mansion block is situated and in the lobby of the block where MY and the boys live. There were images available from several different CCTV cameras, one inside and the others outside the building. During the incident, which occurred in the early evening it started to rain and began to get dark.
32. In brief, L had phoned FY when he was driving K home and had brought M down to wait on the corner where they can be seen on the CCTV images waiting for FY to arrive. L told his mother that FY tried to speak to him and to hug him and that then FY had tugged and pulled him. As this was happening they had entered the lobby. L told his mother that he had then asked FY to leave him alone, but he refused and that then FY cornered him by the lift (off camera) and was pushing him and flicking at his face with his fingers and had threatened to slap him. In the altercation FY had pulled L towards him and would not let go. The CCTV shows M becoming distressed and running upstairs towards his home, L, apparently at FY's bidding, followed M and brought him downstairs where he could be seen sitting on his father's knees on a chair in the lobby. The group then went outside towards FY's car and K and M got into the car. By this time it was raining quite heavily and L remained on the pavement. FY can be seen gesticulating at L. L told his mother that FY had touched him and then pushed the car door into L's chest. L accepted that he was angry and verbally aggressive but says that FY had kept telling him to "*fuck off.*" The scene was witnessed by K and M, who were both upset by it, as there is little doubt that M had run upstairs because he was upset earlier. L had then phoned his mother who could hear what she described as screaming

and shouting. It was MY's impression that FY had lost his temper and had lost control of the situation. The CCTV images are silent and open to interpretation, nonetheless, from the available imagery it was apparent that FY was not able to manage the situation and that it was chaotic at times.

33. MY had returned home shortly afterwards and spoke to the boys and it is her evidence, which was not challenged, that they were all upset, but especially M who told her he did not wish to see his father and did not want to be like him. MY obtained CCTV images of the incident from the building's porters and was initially provided with what she understood from the porters to be the clearest images. There is no evidence to support any suggestion that MY deliberately withheld CCTV images of scenes that supported FY's case. As soon as the full or further CCTV images of the incident were requested, MY had taken steps to obtain it and provide it to FY. It is MY's case that what can be seen from the CCTV supports the account given to her by her sons, but as I have already noted, the imagery does not cover everything that happened and there are no images of what occurred by the lift or of how the incident ended. The court was provided with a schedule identifying and describing what can be seen. It is FY's case is that the CCTV images support his case. The CCTV imagery lasts less than thirty minutes in total; it was watched in court with both parties present.
34. The import of what the boys told MY is not disputed, nor is the fact that she was told by her sons that there had been an incident involving their father and that they were distressed by it. I accept that M told MY that he did not want to see FY and did not want to be like him. I accept that K said FY had lost control and L said FY had been physically aggressive towards him and had sworn at him. Furthermore, I accept M said to his mother later that he would feel more comfortable seeing FY with Ms Kenley. This is supported by the evidence of Ms Kenley when she saw M herself later. I found telling MY's evidence that she had herself been convinced by L's description of FY flicking or tapping L's face with his fingers as that was something that FY had done to her in the past, for it is part of FY's case that MY is not inventing what she was told rather that L, in particular, had lied to her.
35. There is nothing to gainsay MY's evidence of what S (the nanny) said to her. S told MY that she had heard FY who had shouted in lobby. This is not direct evidence and hearsay, and if accurate is consistent with what can be seen on CCTV and supports what K and L told their mother, but because I have not heard from this witness directly and the objections raised I shall not give it much weight in my consideration of the evidence as a whole. MY's evidence is that she had heard FY shouting in the car (whilst she was on the phone). Under cross-examination MY maintained that she had heard FY shouting and at the very least loud voices in what seemed to be amid chaos.
36. MY's oral evidence was that of a calm and thoughtful witness, an impressive parent who is in tune with her sons' emotional needs and well placed to assess them, an assessment that is supported by Ms Kenley. MY is an insightful parent, also as observed by Ms Kenley, who has not been transferring her own fears and concerns onto her children. I found her evidence to be clear, balanced, and accurate, and consistent with Ms Kenley's assessment of her. Moreover, MY did not hesitate in admitting to her own faults such as failing to inform FY that she had arranged age-appropriate therapeutic counselling for M. I accept MY genuinely supports FY's contact, a view shared by Ms Kenley and agree with her observations that many parents in this same situation would have used the events of 30th September 2019 to try to stop contact completely. MY has not done so and there is no evidence to support any contention that she has obstructed

contact, the decisions she took were to protect M and on the advice of Ms Kenley. MY did not suggest that there should be no contact at any point, including immediately after the events of 30th September, rather she endeavoured arrange for contact to take place and that M should be supported by the presence of Ms Kenley.

37. FY's case is set out in his witness statements and oral evidence and supplemented by a comprehensive position statement and skeleton argument and closing submissions from his counsel, which I have considered along with the evidence itself. To attempt to put it succinctly, FY's case is that the events of 30th September 2019 have been blown out of proportion and that what MY was told by the children was exaggeration at best and was untruthful. I keep in mind, as I was urged to do by counsel for FY, that the reported speech of the parties' children requires the court to exercise great caution, nonetheless the fact that they said what they did to their mother reflects the import of the incident of 30th September on them and is indicative, at the very least, of events which caused them all distress and that was an unpleasant experience for all concerned. FY himself, in his evidence to the court, accepted that he had not handled the incident as well as he might have done. Thus, even on FY's case, to quote the document prepared on his own behalf, this was a distressing incident. The document then goes on to lay the blame firmly at the feet of L by saying it was "*distressing because of [L]'s behaviour, which, it appears admitted by all, was bad, which would have impacted on all three children.*"
38. Having heard FY's oral evidence I accept that he loves all three of his sons, including L. FY told me that that the situation with L had been very painful for him, and that "*I am tired and upset and frustrated.*" I have no doubt that, as he told me himself, that when FY went to hug L on 30th September he hoped that L "*would give me a hug back, I was genuinely very pleased to see him...hoped he would give me a hug...*". FY wanted some rapprochement with his son and I could see and hear that he felt hurt by what he perceived to be L's rejection of FY's attempt to show physical affection that day. In his oral evidence FY said, "*[At the] door I was trying to hug [L] ...he was being aggressive. He pushed me away.*" Despite this FY told me that he remained calm and composed, he repeated the word calm several times throughout his evidence. This is in conflict with what the boys, L in particular, told their mother. FY does not dispute what L is reported as saying but told me that L was lying and said so in terms. There is no sound on the video, the boys say that their father shouted, and L said to his mother that his father flicked his face with his fingers and told him to "fuck off." FY denies that either happened, he said, categorically, "*I did not raise my voice at any point during the incident.*" FY had undertaken to this court not to shout at the boys during contact.
39. FY accepts that the situation inside, in the lobby of the mansion block, was confused, that K and L were upset, and that M had run away upstairs. FY said he was "*quite surprized that [L] brought M back down.*" FY can be seen on the video putting M on his knee to reassure what FY described as "*a very confused young man, a kid confused.*" The fact that L brought M back down to his father is evidence which contradicts FY's assertions about L using the situation to further his own aims in vilifying his father. Indeed, the evidence is that L had actively helped M to see FY, from the initial phone call, to bring M downstairs to play with him while he waited for FY to arrive (FY said he had been surprised see L as it was usually the nanny who brought M down) and then helping when M ran upstairs upset. As observed by Ms Kenley in her evidence "*[L] loves [M]... how nice [he is] with [M] and wants him to have a positive relationship with [FY].*" FY was undoubtedly pleased and surprised to see L; the difficulty arose in FY's interpretation of L's actions which were those of a big brother and not of a prodigal son.

40. I have considered the video images from the various vantage points carefully, along with the helpful document setting out in neutral terms the visuals from each camera. I found Ms Kenley's evidence about the video, particularly the last ten minutes in the rain at FY's car parked by the kerb on which L was left standing. During this time, it is MY's evidence, while on the phone to L, that she could hear confusion, a lot of noise and shouting in car, shouting which included FY. Ms Kenley's view was that if there had been shouting it was a "*conflicting situation*" and that the shouting in the car would have been harmful to M and all the boys. Ms Kenley spoke of "*[L] being in the pouring rain...*" and that to her this part of the incident "*seems for ever, I kept thinking what's going on.*" I entirely agree with Ms Kenley's observations, it was a very long time for a boy to be standing in the rain. There was, on any view conflict and confusion, and it is more likely than not that there had been shouting and raised voices, including from FY. M, still just a little boy, was in the middle of all of this conflict and chaos with people getting in and out of the car and swapping seats.
41. It was during this part of the incident that it is said that FY deliberately pushed the door into L who was standing by an open rear door of the vehicle near the kerb. The video supports any contention that FY at least pushed the door towards L. FY said in cross-examination it was "*to close the door...pushed it out of sadness...I may have pushed the door...I must have. The whole situation was very unwise. I wish it had never happened. I don't know if the door made contact.*" It is unlikely that FY would not have known or noticed if the door made contact with his son who was standing right there in front of it. At best FY was reckless in pushing the door when L was in the way of it closing, at worst he did it deliberately. I find that the latter must be the more likely. I accept that FY would have been saddened by the situation, but there can be little doubt that he was also angry. FY has sought to blame his adolescent son for what happened and accuses him of lying. The court is left in little doubt that FY feels both hurt and aggrieved, when, as he said to me, "*I seem to shoulder all the blame.*" What his evidence was lacking was any introspection or reflection on the nature and extent of his role in the estrangement between himself and his sons, including, latterly, M.
42. It is MY's case that following the events of 30th September, the distress of M and the other boys (FY accepted in his evidence that K had been stressed and was "flapping" as he does when distressed and it is most unlikely that L could have been anything other than distressed) was evident when they had told her about what they said happened. The anxiety M then displayed about seeing FY without another person present led to MY contacting Ms Kenley who made it made clear that she (MY) should put M's safety and welfare first. MY told FY that contact could occur on 8th October 2019 but would need to be supervised or supported by Ms Kenley as M remained concerned about seeing FY and wanted another person present. MY had proposed contact take place on 8th October, when Ms Kenley could supervise, rather than on 7th October, M's birthday, as Ms Kenley was not free on 7th and there was correspondence to this effect. FY insisted on unsupervised contact. Whatever the rights and wrongs of the situation FY chose not to see M in the presence of Ms Kenley. Not only did he forego the opportunity for M to spend time with his father FY also failed to allow for, or demonstrate any awareness of, his child's need for reassurance and to feel safe. FY left for Dubai later on the 7th October. An application for an urgent hearing was lodged with the court by those representing MY on 9th October 2019.
43. It is FY's case that MY cannot be accepted as a reliable historian and that there is good reason to be concerned about the accuracy and reliability of the children themselves, especially when speaking to their mother; this is partly based on what the boys have

said to FY. This stance fails entirely to comprehend or accept the converse which is that the boys will be equally likely to present in a different manner to their father, who has in the past been oblivious to the effect that his behaviour has had on his sons. The submissions continue, when referring specifically to M, that he is a boy who “*tends to exaggerate and tells lies*” as that is what his mother has said about him to Ms Kenley when he had complained about his father’s conduct during contact. In the contact records Ms Kenley reported, “*On 15 October I spoke briefly with [MY] regarding the arrangements for contact the following day. I told her [FY] had mentioned the possibility of going bowling and an Indian meal that [M] had requested. He told her that he had enjoyed the outing at the Rainforest café with his father but he had been sick after the meal. I told her he had not been sick during the outing and had been very cheerful throughout. She wondered why he had fabricated this.*” The submission regarding MY’s comment to Ms Kenley does not provide convincing evidence that M lied to his mother about his feelings concerning FY after the events of 30th September 2019 nor does it provide evidence that MY is, or was, likely to lie about what M says to her. It has to be viewed in the context of the particular conversation about M, which was about the reason for M telling blatant fibs to Ms Kenley about what had happened in contact when he was apparently jealous of, and in response to, what his father had been saying about his daughter. MY’s comment was I find, if anything, supportive of FY and does not provide evidence of anything other than that she is well able to tell when M may be exaggerating or being untruthful.

44. Children, and adults, tell lies and do so for many different reasons. It is appropriate that I remind myself of that in keeping with the decision of the Court of Appeal in *Re H-C* [2016] EWCA Civ 139 in respect of the need for judges hearing cases and decision making in the family courts to bear in mind the direction set out in *R v Lucas (Ruth)* [1981] QB 720. In concluding that any person has lied about any issue or matter or point does not mean that that person has lied about everything, specifically the matters or points at issue, and that the fact that person has told lies is not of itself proof that they lie about everything nor can it form proof, in and of itself, of any allegation or complaint, matter or point. As I said above I am well aware and keep in mind that people can and do lie for a myriad of reasons, including embarrassment, shame, jealousy, fear, or ignorance to name but a few.
45. Thus, while I accept that M has lied about his father to Ms Kenley it does not follow that what he said to his mother about the 30th September 2019 is untrue. Furthermore, although I accept that M has said different things at different times about seeing his father immediately after the incident, including telling FY he wanted to see him, this latter was in the context of M’s birthday in early October and unsurprising, as observed by Ms Kenley in her oral evidence, when FY was promising more presents and treats. It strongly brought to mind FY’s similar conduct in the past when offering the inducement or promise of a Segway to K. It is of concern that seemingly FY is still unable to connect his actions and promises with anything his young son might say, still less see that it would be likely to be putting pressure on the boy. It is, sadly, irresponsible behaviour. Counsel points to other incidents where M has reacted in a negative way in respect of FY and has said things that seem to reflect badly on FY, such as his complaint about FY “*shouting in [his] ear and pointing*” at the bowling alley, when Ms Kenley had seen that as the respondent being helpful and encouraging. Pausing to reflect that Ms Kenley’s view or impression of what happened was hers and not the child’s, it is nonetheless disturbing that M’s reaction to FY has deteriorated to the extent that he was at the time of the hearing refusing to see FY at all.

46. FY's case is that what M is saying or telling MY is "*his saying that which he thinks his mother wants to hear and of also his feeling the need to ally himself within his mother's household with [L].*" The inclusion of L is because, it is submitted on FY's behalf, that his seventeen-year-old son L "*clearly has an axe to grind with his father and he is very sadly a very troubled young man.*" FY submitted and exhibited photo-shots of some of L's electronic messages to his father which were abusive in content and while the responses of FY which were exhibited were not in any way abusive towards L, the court has no way of knowing how selective the exhibited messages were as they were not produced independently and subject to expert scrutiny; nor is the context or circumstances in which they were sent available to this court. L is a young person that is not a party to or a subject of these proceeding and as such neither he nor anyone acting on his behalf have been able to answer or respond to FY's assertions. According to MY, L had admitted to his mother that he had been angry and verbally aggressive during the exchanges with his father on 30th September 2019 which displays a certain amount of candour on his part.
47. In this instance FY seeks to rely on what M has said about L telling him (M) that he (L) hated his father. As FY says, L as the big brother is an influence on M, which FY says is "*to say the least, not a wholly positive one*". FY seeks to rely on the fact MY has told Ms Kenley on 16th January 2020 that she thought that some of M's statements such as his father lying or K driving being "stupid" were M repeating comments that he had overheard said by L. It would be surprising, and indeed more than a little concerning, if the brothers did not have an effect on each other, and had demonstrated fraternal loyalty, but it is far from clear, based on the evidence before me, that L is overtly influencing M against FY. Of concern is the fact that once more there is little or no evidence of FY being able to reflect on any negative effect he may have on his sons and the effects and consequences of his actions towards L, in particular, in the past. While it is clear that L is angry with his father and feels hurt by him it is, I find, a striking piece of evidence that he was able to put M's wishes first when he contacted FY on 30th September 2019 and then took M downstairs to wait for their father. I was equally struck by the way L played with his little brother and kept him safe while they were waiting for FY on the pavement outside their home.
48. Unattractively in the submissions put on his behalf to the court, FY diminishes and is dismissive of K's fraternal role and his personality, "*as for [K], his issues are well-known to the court. He is impressionable and it is hard to imagine his being able to have stuck up for the truth on the evening of 30 September 2019 against the tide of negativity against the respondent that was emanating from [L].*" The court is aware of K's learning difficulties and vulnerability (indeed that is why an order was made extending to his eighteenth birthday in previous proceedings), it simply does not follow that K is more likely to tell lies, is unable to distinguish right from wrong, and cannot voice his own opinion. From all I know about K he is close to his mother and is relaxed in her presence. I do not accept that what K told MY about the events of 30th September 2019 was anything other than what he believed he had seen and heard.
49. As is expressly accepted by FY the noise and "commotion" heard by the nanny would be congruent with both conflicting accounts. FY's evidence, it is submitted on his behalf, was that of the one live, consistent, and reliable witness to the events of 30th September 2019. There remain the CCTV images. MY's evidence of what she heard was partial, in all senses of the word. While FY chose to apologise to MY when giving oral evidence, and that is to be commended, the fact that his case is based on a wholesale attack on the veracity of his son L, and to a lesser extent on the veracity of K and M,

remains troubling. Both because he is attacking his sons and because of the concomitant failure to accept his responsibility for what has occurred.

50. Ultimately it is submitted on behalf of FY that whatever the court decides in respect of the event which took place in September, the conclusion should be that M was not harmed by FY's conduct during the incident. It was further submitted that such a conclusion was consistent with Ms Kenley's evidence, a submission, having heard her oral evidence, with which I cannot agree. Nor can I ignore other evidence about the effects on M, Ms Kenley's evidence to me was that she was "*very concerned for [M's] welfare, he was volatile and confused.*" There were additional indicators of harm such as the decline in M's academic achievement and behaviour at school which occurred in parallel to difficulties over contact. M had had an outstanding report in December following the break in contact and his declining scholastic achievement coincided with the resumption of contact even when supported and supervised by Ms Kenley.
51. Ms Kenley. I have already referred to the evidence of Ms Kenley in this judgment, she is an independent social worker of 20 years standing, who has been a children's guardian for 25 years. Her evidence was that of thoroughly professional and a most impressive witness. It was her view that the events of 30th September 2019 on the version as put by MY would have caused M emotional harm, attributable in whole or in part to FY. It was Ms Kenley's opinion, and hers is an independent professional opinion that can and should be relied on, that M was "*unsettled, very, very unsettled at the moment.*" In cross-examination by counsel for FY, Ms Kenley said that she was "*so pleased that [M] was getting professional help*" having previously said that M definitely needed professional help. Ms Kenley was wholly supportive of MY having made arrangements for play therapy. She told me that she was really concerned about M's mixed emotions and that if MY's evidence about M showing signs of trauma were found to be true then it "*indicated significant harm and trauma...distress and that [M] was still suffering effect of harm at the time [M] didn't want to be [like] his father and see [him]...this is not about [L]...dad was the problem.*"
52. There is no evidence to gainsay what MY has reported about M's reaction to what took place on 30th September and to his father immediately afterwards and since: it is supported by the independent evidence of Ms Kenley and by M's school reports. Ms Kenley told me that in her view MY "*definitely wants [M] to have a relationship with his father...[MY] is always pleasantly relaxed and flexible [about contact].*" Ms Kenley referred to the fact that there had only been four sessions of unsupervised contact, which she said were "*not that many before it had blown up.*" Ms Kenley had concerns about FY's dismissive view of the need for support and/or supervision. She told me that she would want to speak to Dr M, who is providing therapeutic support for M and to M himself before putting arrangements in place. Moreover, I must keep in mind that FY had told me in his oral evidence, "*I don't know if I could go through it. I have no idea if I would follow Ms Kenley's advice.*" Ms Kenley did not share FY's view that she was hampering his relationship with M. There is no objective evidence that this is, or was, the case. The time M spent with his father when Ms Kenley was there was not intruded upon or interfered with in any way that could be described as negative. Ms Kenley's comments that contact should move away from meals and shopping to more activity-based contact are self-evidently and wholly constructive and child-centred.
53. While I accept that FY gave an unprompted apology to MY in the witness box, this has to be considered in the context of his evidence as a whole, including saying that MY had not "*moved on*". FY told the court that MY had been lying when she said she had

heard shouting in the car on 30th September and that she had “*planted*” the idea that M wanted Ms Kenley to come with him for contact afterwards. I do not accept this, and FY accepted in his oral evidence that he could have handled the events on the evening of 30th September 2019 better, but the fact remains that the M reacted adversely and was rejecting of his father after those events. MY’s reaction in involving Ms Kenley was to reassure M and an attempt to ensure that M *did* spend time with FY. FY’s refusal to accept this and to attribute MY with Machiavellian manoeuvring is evidence both of his inability to shoulder responsibility for what took place and for the effects of the incident on M (and his other two sons) and, indeed, of FY’s inability to move on with the assistance of Ms Kenley.

54. CCTV. Any review and consideration of the CCTV images and the brief transcript of the same must be within the context of the evidence taken as a whole. As I have previously said the images are partial in the sense that they do not cover every angle of the events which took place, and, as FY reminded me, whatever happened by the lift doors cannot be seen. The images are also impartial in that they were not recorded by or on behalf of any of the parties to this case, and in that latter sense the images are relevant as some independent evidence. Nonetheless the images are without audio and open to interpretation, and the protagonists’ reportage differs considerably. I have kept that in mind but find that the stance and body language of the boys tends to support their reported version of events more than that of FY’s.
55. Specifically, the interaction or what appears to be a physical altercation between FY and L, FY appears to have pushed or grabbed at L at the door of the lobby and L is seen looking down and away from his father. Once inside K appears agitated, as he does repeatedly throughout. M then runs away from FY upstairs, he appears to be upset. L then brings him back and FY places M on his knee and L hands FY a phone. All the scenes which took place cannot be described as calm or relaxed and at times each one or all of those present seem agitated and/or tense, this includes the points just before and after L and FY are out of sight near the lift.
56. On leaving FY goes out of the door with M followed by K and then L. M is then seen running to the car followed by FY, K and then L. Ms Kenley was struck (and said so in her oral evidence) by FY failing to hold M’s hand as they walked to the car parked at a junction. She described FY as very, very good at holding hands and said she was “*shocked*” that he had not done so, and that she felt, “*something was wrong, really not like [M] to run off.*” K, FY and M got into the car, leaving L standing by the rear door on the pavement. The car was parked close to the junction, there were other vehicles regularly passing by, mostly on the road on which the car was parked. There followed what can accurately be described as a stand-off at the car. FY got out of the car and clearly has words with L who remains standing by the car. It is visibly wet and raining. The rain becomes steadily heavier, as it can be seen dashing into the puddles that have formed. L is standing in the rain. FY is seen approaching L from the front of the car with the open car door between them, FY appears either to put his hands on to L or to push the door directly onto L, the latter is consistent with FY’s oral evidence. Either would be a deliberated action amounting to an assault as there is nothing (including in FY’s evidence) to point towards accident and no reason to have done so other than to try to force L out of the way.
57. FY gets back into the car, and the car door remains open and the rain becomes heavier, L is standing in it and must be getting wet and cold. We know that L at some point phoned his mother and that she heard loud and raised voices. It is clear from the images

that this was not a situation which FY had under control, and it is most likely that as the situation dragged on FY became more annoyed and frustrated, at one stage pleading with MY to trust him and agree to him taking M with him in the car. I accept MY's evidence that she heard shouting or raised voices as the most likely scenario and agree with Ms Kenley that this conflict, noise, and confusion would have been distressing for all three boys, the distress of K and M exacerbated by the way FY had treated L. They would know and have seen their brother standing in the rain trying to speak to their mother on the phone, and seen FY pushing the car door onto L.

58. FY then got out of the car, the back door still open, he was followed by K. L then shut the door and can be seen on the phone near the car. It continues to rain and is getting darker as night falls. K lifts M out of the car and takes M to the door of their building followed by L. K comes back to the car and gets in and the car is driven off by FY. The scene at the car lasted about ten minutes but seemed interminable. The sight of L left standing in the rain by the open door was both concerning and striking, and there can be little doubt that by this stage FY had chosen to take M with him, it seemed as if this had become the most important thing for FY and he had lost sight of the welfare of any and each of those three boys who were indubitably becoming more and more distressed by the situation.

Conclusions

59. Having considered all the evidence, as set out above, it has become apparent that FY completely mismanaged the situation and lost control of it, becoming frustrated and angry, particularly with L. I do not doubt that FY was genuinely pleased to see L and had tried to embrace him hoping for the hug to be returned and for a reconciliation, in this he was either naïve or deliberately blind to the hurt and emotional distress that he has repeatedly caused his son in the past. FY's disappointment in what he perceived to be L's rejection of his attempt to proffer some physical affection is a manifestation of FY's lack of empathy with his child, his refusal or inability to accept and recognise the extent of his responsibility for L's estrangement from his father. That FY tried to hug L without first considering, let alone finding out, whether such physical attention was welcomed was insensitive at best, one does not force an embrace on anyone-elsewhere it would be considered an assault. Moreover, his action was a further example of FY's overwhelming need to put his own feelings first, to be in control and to control the actions and reactions of his children. I find that, once again, for the reasons set out in the review of the evidence above FY, was physically aggressive to L by pushing or attempting to engage physically with him near the lobby door. I find it more likely than not that FY was angered by what he considered to be an unwarranted rejection, regardless of whether or not L wanted him to, and that then he flicked or fingered L's face in the lobby near the lift when remonstrating with his son.
60. All of this was witnessed by M who was witness to his brother's distress, was distressed in turn by what had happened, and reacted by running away upstairs. The scene in the car and at the car door seemed to last a very long time to those watching the CCTV images, it would have seemed even longer to M. I find that FY, in his determination to take M with him, allowed the situation to degenerate so that M was witness to his older brother standing in the pouring rain while FY tried to get MY to agree to further contact over the phone with all the boys present. The confused, chaotic, and noisy scene would have caused M further distress and anxiety and, inevitably, caused trauma in a young boy. Taken as a whole these were, from a child's point of view very frightening events demonstrating that contrary to his protestations when giving evidence, FY has not

changed sufficiently to enable him to put M first and before his own feelings and wishes.

61. In doing what he did in the car FY involved the children in arranging contact for M without MY's agreement and FY was in breach of his undertaking of 14th February 2019. FY accepts little or no responsibility for what happened and has attempted to place the burden of responsibility largely on the seventeen-year-old L. There can be little wonder that this young man continues to have emotional difficulties. Despite the fact that FY has apparently breached his own undertakings to the court, FY has sought not only to blame L but to have MY subject to censure for trying to arrange supported contact with M in the aftermath of these distressing events. Moreover FY, by raising his voice and in the way he behaved towards L, has breached his undertakings not to raise his voice or use any form of physical chastisement during his contact with the children. It is submitted on behalf of MY that in doing so FY has reverted to the type of controlling and abusive behaviour that the court has previously made findings about. It is difficult, if not impossible, not to agree with this submission.
62. MY has chosen not to pursue proceedings in respect of any potential breaches by FY of his undertakings, considering it not to be in M's best interests. In doing so, MY has again demonstrated her consistently benign and child-centred approach to these proceedings. In contrast, FY actively sought findings against MY in respect of the entirely reasonable and child-centred approach she took (as set out above), having taken the advice of Ms Kenley, after the events of 30th September 2019.
63. I find that M has suffered harm as a direct consequence of his father's conduct and behaviour on 30th September 2019. The evidence of that significant emotional harm can be seen at school and in the descriptions of M's distress and confusion as described by Ms Kenley. Ms Kenley's real concern about M's mixed emotions was dismissed by FY in his evidence, but her concern was such that she expressed relief that M was receiving therapeutic help. His rejection of his father is further evidence of emotional trauma and harm he has suffered. Sadly, it remains clear that FY's understanding of his boys' emotional needs remains limited, curtailed by his own views, emotional needs and feeling about what he sees as his role as their father. Although he had some limited therapeutic assistance in 5 sessions at the Anna Freud Centre in 2016, it is some years ago since it took place and appears to have had little long-term or qualitative impact. FY has failed to demonstrate any insight into the effects and the impact of his behaviour, his words, and his actions, on all three boys. By failing to accept, or seemingly even to comprehend, that as the parent his is the ultimate responsibility for what occurred on 30th September, there must be concern about his ability to control himself and take his full share of responsibility, as a parent, in future.
64. In dismissing M's reactions to what happened and denying M's confusion and mixed emotions in respect of his father, he does not appear to have begun to grasp the extent of the impact of the incident on M and the harm that has been caused. Unsurprisingly and appropriately, MY is very concerned by the events of 30th September 2019. As, sadly but unsurprisingly given FY's behaviour towards MY, M's parents' relationship remains strained. Their communication is limited to email and an occasional text and they rarely speak directly. As a result, the boys have been denied a healthy experience of co-parenting. FY blames MY and continues to accuse her of lying.
65. The court has found that the incident caused harm to all three the boys, but for the purpose of these proceedings it is the harm caused to M which is the most relevant. M's rejection of his father, and the fact that the deterioration of achievements at school is

demonstrably linked to contact, along with the emotional confusion is all evidence of the distress and harm caused to M by FY. Ms Kenley has recommended that FY should undertake a forensic psychiatric assessment, and the court agrees that some professional assessment is necessary to enable the appropriate assistance to be put in place to ensure that there is not further repetition of the events which took place in September 2019 and in the past.

66. I have listened what Ms Kenley has said, along with the fact that it only took four sessions of unsupervised contact for it to unravel. I have no doubt that FY loves his sons, and that they and he wish to see each other, but there must be real concern that for M (who is still a young boy) there should be not be a repetition of the estrangement between L and his father. MY has repeatedly shown her commitment to her boys seeing their father, and any conditions she has sought to impose over the years have been aimed, solely, at ensuring the safety of her children. There needs to be professional intervention and support with two principal goals, prerequisites in providing for a safe and nurturing environment in which contact can proceed and progress: to enable FY to understand and think about the situation and paternal relationship from the point of view of M in particular, and each his children; and, secondly, to enable FY to control himself and his own emotions and anger, rather than trying to control his children or others. Such intervention is likely to include a risk assessment of FY.
67. In the short to medium term, at least, M should spend time with his father provided it is supervised and supported by Ms Kenley, who M likes, knows well, and trusts. M saw his F twice in December 2019 and again on 15th January 2020, all in the presence of Ms Kenley. M then refused to see FY on 17th January 2020 but was willing to see him on 19th but FY was not available as he had left the country. At the time of the hearing M did not want to see him. Since then the global pandemic caused by the coronavirus Covid 19 has disrupted international travel. There are exceptions in place for children of separated parents, but any contact would involve Ms Kenley which would take it outside that regime if taking place indoors. All contact would have to be tailored to the current safety restrictions in place to contain infection.
68. This is my judgment.