Neutral Citation Number: [2024] EWFC 212 (B)
IN THE CENTRAL FAMILY COURT Case Number 1687954739521322

B E T W E E N:

LAURYN GOODMAN Applicant

- and -

KYLE ANDREW WALKER Respondent

IMPORTANT NOTICE

. The judge has given leave for this version of the judgment to be published.

The court made a final transparency order on 29th July 2024, but publication of this judgment or any of its contents will not breach the final transparency order.

Ms Nichola Gray KC (Counsel instructed by Dawson Cornwall, Solicitors) appeared on behalf of the Applicant mother.

Ms Nikki Saxton KC (Counsel instructed by Malcolm C Foy & Co., Solicitors) appeared on behalf of the Respondent father.

Written Judgment of His Honour Judge Edward Hess dated 23rd July 2024

INTRODUCTION AND CHRONOLOGY

1. The parties are Ms Lauryn Goodman (the Applicant, to whom I shall refer as "the mother") and Mr Kyle Walker (the Respondent, to whom I shall refer as "the father"). They are the parents of two children, namely Kairo Walker (a boy, d.o.b. 17th April 2020, to whom I shall refer as "Kairo", who is now aged 4) and Kinara Storm Walker (a girl, d.o.b. 28th June 2023, to whom I shall refer as "Kinara", who is now aged 1).

2. The hearing before me on 16th and 17th July 2024 largely related to the mother's financial remedies application under Children Act 1989, Schedule 1 in relation to Kinara, although some of the points raised also relate to Kairo.

3. Both parties appeared before me by Counsel: Ms Nichola Gray KC (Counsel instructed by Dawson Cornwall, Solicitors) appeared on behalf of the mother and Ms Nikki Saxton KC (Counsel instructed by Malcolm C Foy & Co., Solicitors) appeared on behalf of the father. I am grateful to both Counsel, and indeed the wider legal teams, for the helpful and clear way they have respectively conducted their cases. Both parties have been represented before me at a first class level; but it has, of course, come at a cost. In the proceedings for which this was the final hearing, the mother has incurred a total of £259,298 in legal costs and the father a total of £171,440. All but a very small portion of the mother's legal costs have been paid by the father, who has of course paid his own costs as well.

4. The court was presented with three electronic bundles (a 'core bundle' running to 367 pages, an 'exhibits bundle' running to 859 pages and a 'supplemental bundle' running to 71 pages) and a paper bundle running to 67 pages. I have considered all the documents presented to me, in particular I have considered:-

    (i) A collection of applications, judgments and court orders, both from the current proceedings and earlier proceedings.

    (ii) Material from the mother including her Form E1 dated 20th September 2023, her answers to questionnaire dated 13th November 2023 and her witness statements dated 28th July 2023, 7th November 2023 and 5th June 2024, including exhibits.

    (iii) Material from the father including his Form E1 dated 22nd September 2023, his answers to questionnaire dated 10th November 2023 and his witness statements dated 20th November 2023 and 4th July 2024, including exhibits.

    (iv) Properly completed ES1 and ES2 documents.

    (v) Selected correspondence and disclosure material.

5. I have also heard oral evidence from the mother and the father, subjected to appropriate cross-examination. As a case management decision, I time limited the cross-examinations to 3.5 hours each in order to ensure that evidence and submissions were completed within the two-day time estimate. I am satisfied that this gave sufficient time for each party to put forward their own case and challenge that of the other and nobody has suggested otherwise.

6. I have also had the benefit of full submissions from each counsel in their respective opening notes and their closing submissions.

7. To put the current dispute in context I propose to set out a chronology of events, as follows:-

(i) The mother is aged 33 (d.o.b. 18th January 1991). She is a single person who lives in Sussex with and is the primary carer for her two children, Kairo and Kinara. She was formerly a bank cashier, has at times described herself as 'an influencer' and has recently had some modest ad hoc earnings from various media projects (including Channel 4's '*Celebs Go Dating*'); but she has no formal paid employment.

(ii) The father is aged 34 (d.o.b. 28th May 1990). His long-term cohabiting partner and later wife has been Ms Annie Kilner Walker, whom he married in November 2021. There are four children from that relationship: Roman (12), Riaan (8), Reign (6) and Rezon (3 months). The father and his family live in Cheshire. The father is a professional footballer at the highest level, currently employed by Manchester City Football Club and also playing as Vice-Captain of the England national football team. In the latter capacity he took part in the final of the European Football Championship on the evening of Sunday 14th July 2024, a fact which caused me to adjourn the start of the hearing by one day (of which more below).

(iii) The circumstances and contexts of the conceptions and births of Kairo and Kinara, and the nature of the relationship between the parties, have, perhaps for obvious reasons given the father's celebrity status, aroused public and press interest and generated a great many newspaper stories. I shall make some comments below about how this press interest has been fed and its effect on some of the orders I shall make, in particular in relation to the publication of this judgment.

(iv) I note at this stage that it is common ground that the parties have never been in a cohabiting relationship. The evidence suggests that the mother wished the relationship to develop further than it has and the father's decision not to allow the relationship develop at all and instead to commit himself to his wife has been a source of disappointment, anguish and anger for the mother. The evidence further suggests that, so far anyway, there has been a reluctance by the father to pursue a relationship with Kairo and Kinara beyond a small number of fleeting encounters which he does not currently plan to repeat. He has instead prioritised his wish to rebuild his relationship with his wife and to draw a line under his relationship with the mother. Whilst these matters are part of the story, and some human beings have undoubtedly been affected and no doubt distressed by them, none of them are of much importance to the financial decisions at the centre of my task, and it is certainly not the role of the Financial Remedies Court to make moral judgments on what has happened or in any way to seek to punish or condemn any perceived human frailties or lack of wisdom.

(v) Kairo was born on 17th April 2020. The mother made a financial application in relation to him on 3rd June 2020, which, painfully and expensively, went through many interim stages to a final hearing before Recorder Chandler KC in February/March 2022. His judgment (from which I shall quote below) was appealed, in one part successfully, to Sir Jonathan Cohen in May 2022, returned to Recorder Chandler again on a drafting point in July 2022 which he resolved by an order dated 25th July

2022 and was appealed for a second time to Sir Jonathan Cohen in August 2022 on the drafting point. Before the second appeal could be determined, some further negotiations had taken place against the background of the mother's threat that if she did not get what she wanted she would select a home a stone's throw away from the father's family home in Cheshire rather than in Sussex, an idea which she knew horrified the father. The more generous provision led to a compromise of the appeal in a consent order in due course approved by DDJ Burles on 28th November 2022. The overall costs incurred in this first round of proceedings up to July 2022, which are almost certainly not all of them by the end, are recorded in Recorder Chandler's July 2022 order as being £427,277 by the mother and £201,702 by the father. All but a very small portion of the mother's legal costs were paid by the father. Not very long after this compromise was reached the mother became pregnant again by the father. Against the background of this (then secret) fact, the father offered yet more generous housing provision which (perhaps naïvely) he hoped would keep the lid on the news of the second pregnancy.

(vi) Before the housing provision ordered by DDJ Burles could be implemented, Kinara was born on 28th June 2023.

(vii) On 30th June 2023, when Kinara was just 2 days old, the mother made a financial remedies application in relation to Kinara, launching the present proceedings. On 28th July 2023 the mother's legal representatives made a pitch for "*an order for the sum of £131,000 to be made available on account of the mother's legal fees*" together with a range of interim provision. Forms E1 were exchanged in September 2023 and I dealt with a First Appointment on 16th October 2023 and referred the matter to a private FDR before Mr Tim Amos KC, which took place on 7th December 2023. Unfortunately, no compromise was achieved at the pFDR and the matter was returned to court. I made a directions and interim order (by consent on paper) on 19th January 2024 and a further interim order (again by consent on paper) on 27th March 2024. Final witness statements were exchanged in June/July 2024.

(viii) Throughout 2023, the father (again, perhaps, naively - honesty might have been a better policy) sought to keep secret the fact that he was Kinara's father. It is clear from the evidence that he was understandably embarrassed about this fact and anxious about how his wife would react when she found out. In his attempts to persuade the mother to go along with the retention of secrecy, the father gave way to many of the financial demands of the mother which he might otherwise have resisted. Most obviously, he agreed to increase the mother's housing budget from the figure of £1,850,000 agreed by the parties and approved by DDJ Burles in November 2022 to the purchase price of £2,400,000 of the Sussex home purchased in August 2023 which she now occupies. The evidence before me has amply demonstrated that the mother was able to leverage these substantial increases by hinting that she would go public on the paternity issue. If the father thought that this rather generous house budget increase would keep his paternity a secret, he was to be disappointed, and the

mother plainly had no intention of keeping the matter secret. She saw no advantage for herself or her children in the secret being kept and this is perhaps understandable. As well as making a significant number of obvious social media hints about the paternity, the mother decided to send a text message to the father's wife on 27th December 2023, at a time when she knew the father was playing football so would not be at home, saying: "*Hey its Lauryn I just wanted to quickly tell you that Kyle is the father of our daughter*". This was intended to, and did, cause distress to the father's wife. I do not accept the mother's explanation that this text message was sent in an attempt to create a good working relationship between the two women in the father's life. In my view this text was written in the same spirit as the series of text communications with the father's next door neighbour in Cheshire in which the mother sought to persuade the neighbour to record conversations over the garden fence with a view to gain material to undermine the father's marriage. When the mother texted the neighbour to say "*Ready to finish them*", she had in mind causing irreparable damage to the father's marriage.

(ix) The final hearing was listed (in January 2024) to take place on 15th and 16th July 2024. When it became apparent that the father would need to be playing football in Germany on the evening of 14th July 2024, his legal team applied to adjourn the case. The mother's legal representatives opposed the adjournment in the following terms on 11th July 2024:-

"…on behalf of Ms Goodman, I wanted to clarify that she cannot consent to such an adjournment. Her reasons are numerous…It is entirely disrespectful to the court and to the Mother so make such a request at such a late stage….There is no reason why Mr Walker cannot attend the final hearing. The competition will be over by Sunday evening, and he was well aware of the competition dates when this hearing was listed, with the last 4 weeks or more being required to be avoided in anticipation of the same. He cannot now ask for what is essentially permission to celebrate or commiserate with his teammates. That is no reason to adjourn a hearing".

I took the view that this was not a reasonable position to take and determined the application by putting the two-day case back by one day to 16th and 17th July 2024, to allow the father to return from Germany. The hearing has duly proceeded on these two days.

(x) At the outset of the hearing I received a request from three journalists – one from the Daily Mail, one from the Sun and one from the Press Association – to attend the hearing. This gave rise to a consideration of *'The Transparency Reporting Pilot for Financial Remedy Proceedings'* publicly approved by the President of the Family Division and introduced in the Central Family Court and some other courts on 29th January 2024. The scheme introduced by President's Guidance is that accredited journalists should be allowed to attend the hearing and should be supplied with the parties' position statements and the ES1 and that the court should consider making an '*interim transparency order'* regulating what the journalists could report in the meantime and then later a '*final*

transparency order' when full arguments have been properly addressed, including from the journalists. I report that we followed the procedures in the guidance. The journalists were supplied with the above documents and I made an interim transparency order on 16th July 2024 (which has been complied with to the best of my knowledge) and I heard submissions on 17th July 2024 from the parties' respective Counsel and from Ms Gemma McNeil-Walsh, Counsel instructed by Associated Newspapers (the publishers of the Daily Mail). I shall make some comments below on this issue with a view to making a final transparency order at the end of the case.

(xi) I heard evidence and submissions on the substantive issues in the case on 16th and 17th July 2024 and indicated that I would produce a written reserved judgment at the earliest opportunity, which I now do.

THE DECISIONS MADE IN THE 'KAIRO' PROCEEDINGS IN 2022

8. The decisions made in the 2022 'Kairo' proceedings went through a number of iterations as a result of the various procedural stages described above and it is perhaps convenient to record the end result as the combined effect of the various orders made in 2022 (by Recorder Chandler on 25th July 2022, Sir Jonathan Cohen on 11th May 2022 and DDJ Burles on 18th November 2022).

9. There are many details involved in these decisions, but the headlines for the mother's provision from the father under Children Act 1989, Schedule 1 were as follows:-

(i) The Father was ordered to purchase a property for the mother and Kairo to occupy (subject to some fairly standard Children Act 1989, Schedule 1 terms on reversion to the father) to be selected by the mother up to a value of £1,850,000 within a 60-mile radius of a particular town in Sussex. A sale would be triggered on Kairo ceasing education up to a first degree or earlier if the mother cohabited with or married another person (subject to the leave of the court if Kairo was still in education). The mother was to be responsible for "*internal routine maintenance and decorative upkeep of the property*", but the father was to be responsible for the cost of "*structural repairs, all external maintenance and repairs and non-cosmetic internal repairs*". If the mother wanted to move away from Sussex outside the 60-mile zone to a replacement property elsewhere, she could do so, but only a lower figure (identified as the 'protected housing budget' in the order and set at £1,350,000, proportionately adjusted over time) would be made available for her housing in these circumstances.

(ii) The parties agreed that Kairo himself would have a 10% interest in the property which would be made available to him at the age of 25. The parties also agreed that the father would pay £73,000 into savings and premium bonds to be held for Kairo. It is common ground that, under the scheme of Children Act 1989, Schedule 1, neither of these provisions

could have been imposed on the father against his wishes, but he volunteered them anyway. It has become apparent in the course of the hearing before me that the Deed of Trust recording the 10% interest for Kairo has not yet been drawn up, but the father indicated that he would now attend to it forthwith and he needs to do this.

(iii) The father was to pay child periodical payments to the mother for Kairo and the level was set at £8,000 pcm with CPI increases in March each year from 2023 onwards. It is common ground that the current figure for this, adjusted for CPI inflation, is £9,188 pcm (although the mother's Solicitors had previously miscalculated the figure when making demands of the father, leading to an arrears issue which I discuss below). In fact, the father has voluntarily paid additional sums of £500 pcm and quite significant ad hoc sums for holidays and birthday parties on top of this figure.

(iv) The Father was to pay a lump sum of £40,840 to be applied towards the mother's debts.

(v) The Father was to pay a lump sum of £75,000 as a 'furniture fund' to allow the mother to furnish her new home.

(vi) The father was to pay for such renovation / decoration / improvements to the property which were agreed in advance. A particular list of items, targeted at the then likely property in Sussex (which was later abandoned in favour of a more expensive property in Sussex), was identified as "*the cost of built in wardrobes in four of the bedrooms, agreed that the house will be painted throughout, that the property will have new flooring where required, a media wall for the lounge will be installed (including the purchase of all the equipment necessitated by the same) and the child of the relationship's bathroom (brown bathroom) shall have new tiling and new radiators. New radiators are to be installed to modernise the rooms which require updating, some radiator covers and new internal doors will be replaced as required. Quotes will be sent to the respondent to be mutually agreed and to work together for the work already agreed above."*

(vii) The mother was to retain her Mercedes GLE motor car and the father was required to provide a replacement car (not necessarily an identical car) for her every 4 years (from March 2025) up to a value of £45,000 (less trade in value).

(viii) The father was ordered to pay for all nursery fees, school fees and extras for Kairo's attendance at nursery and then school. The payments were to be made as and when they became due (as opposed to any trust fund being created). These fees have been duly paid for Kairo, although it has been alleged that this has sometimes happened late, an issue to which I will return below.

(ix) The father was ordered to pay additional child periodical payments in respect of child-care costs in the sum of £1,386 pcm until August 2025 and

then at the rate of £1,040 pcm until September 2031. This provision was the result of the appeal to Sir Jonathan Cohen, whose explanation for this decision (in a published judgment reported at *G v W* [2022] EWHC 1101) was as follows (my emphasis in bold):-

*"The issue (Recorder Chandler) had to determine was: Should the Father pay additional periodical payments to the Mother, on top of the agreed sum of £96,000 pa, to enable Mother to employ a nanny (or other regular childcare), on the basis that (i) this will provide the Mother with some needed respite or wraparound care, related to her health problems, and/ or (ii) the nanny will enable the Mother to rebuild her career so that she can work towards achieving financial independence when the Father's financial support comes to an end….**I entirely agree with the judge that childcare costs to restart a career do not fit within the scheme of schedule 1**… In my judgment the judge was wrong to dismiss M's need for a nanny. She had not lived on her own before, certainly not since C was born. She has various health difficulties, although not of a very severe kind. She will not have any assistance with childcare from F. C's father is a wealthy man. **It seems to me not unreasonable for M who will be moving out of her family home to a new home that she should need some form of extraneous childcare**. I was initially minded to make a lump sum order to reduce the risk of further applications and costs being incurred but on reflection, I have decided to take a different course. My main concern must be C, and I am anxious that if I made a lump sum order, the payment would not be used by M for its intended purpose but would instead be used either to repay the soft familial debts or otherwise spent by her. I consider that M's request for the provision of a nanny two days a week at 12 hours each occasion is somewhat excessive. C will be at nursery for 3 hours a day. **I consider that the proper provision would be for: i) F to fund 16 hours of childcare a week which at £20ph (inclusive of the cost of employers NIC and tax and which is not a figure that has been in dispute) from now until September 2025 when C will start school is appropriate. That will require a payment of £1,386pm. ii) From September 2025 until September 2031, when C reaches the age of 11 and will be at all day school, and when the requirement for nanny care will reduce to 6 hours per day for 2 days a week producing a monthly need of £1,040pm. iii) I see no basis for such provision to continue beyond September 2031.** To the extent that any childcare costs are incurred by M over and above these figures, they must be paid by her out of her monthly allowance of £8,000."*

(x) The father was ordered to pay the mother's legal costs (subject to a clawback provision covering some of the costs incurred which seems very unlikely to be activated).

(xi) The father was ordered to pay for life insurance on himself to cover his financial obligations under the terms of the Order. In the course of the hearing before me it became clear that a suitable life insurance policy had been effected for this purpose, but a document needs to be executed to assign the benefits specifically to the mother in the event of the father's

death. There seems to be no opposition to this happening as soon as possible and this needs to happen.

10. It is common ground that the father has substantively complied with all the above provisions (with a few niggling exceptions described above). In fact, in relation to the purchase of a home for the mother, the father has, in the context described above, gone over and above the order by purchasing a home for a purchase price of £2,400,000.

THE KINARA PROCEEDINGS COMMENCED IN 2023

11. The application under Children Act 1989, Schedule 1 issued on 30th June 2023 by the mother in relation to Kinara (but in part reference to Kairo) seeks to build on and extend the above provisions.

12. In the course of or in the context of these proceedings, either wholly voluntarily or as a result of consent orders, the father has made the following payments to the mother, all of which are over and above the provision required by the 2022 orders:-

    (i) He has paid £245,000 towards her legal costs and paid £9,000 for the cost of the private FDR in December 2023.

    (ii) He has paid £48,000 towards the installation of wardrobes at the mother's Sussex home.

    (iii) He has paid £52,164 towards the installation of blinds and curtains at the mother's Sussex home.

    (iv) He has paid £9,115 towards the installation of CCTV cameras at the mother's Sussex home.

    (v) He has paid £5,651 towards the installation of a burglar alarm at the mother's Sussex home.

    (vi) He has paid £30,000 for the 'capital needs' of the new baby.

    (vii) He has paid £27,000 for a 'maternity nanny' for the new baby.

    (viii) He has paid a sum of £16,678 to secure a nanny, including the agency fee, plus £5,590 pcm for child-care costs (inclusive of the child-care costs ordered by Sir Jonathan Cohen)(specifically without prejudice to his position that a full-time nanny was not needed).

    (ix) He has paid £7,000 pcm in interim child periodical payments for Kinara (specifically without prejudice to his position that this was an excessive amount).

(x) He has agreed to pay for the replacement of an electric gate at the mother's Sussex home and this replacement is currently in train.

13. The parties have reached agreement on a number of matters and I am content to approve their agreement and will include the agreed matters in the order that I shall make. The agreed matters are as follows:-

(i) It is agreed that the terms of the mother's occupation of the Sussex property will be extended to the end of Kinara's education (including tertiary education up to a first degree) on the same terms as were previously imposed in relation to Kairo, save that the father volunteered that the 60-mile rule in the 'protected housing budget' provision should be increased to a 100-mile rule.

(ii) It is agreed that the regular repurchase of a motor car for the mother should likewise be extended to the end of Kinara's education (including tertiary education up to a first degree) on the same terms as were previously imposed in relation to Kairo, save that the father volunteered that the replacement motor car could take place every three years (rather than four which was the previous order). It was agreed that CPI inflation proofing backdated to April 2022 should be added to the figure.

(iii) It is agreed that the child periodical payments order for Kinara will run to the end of Kinara's education (including tertiary education up to a first degree) on the same terms as were previously imposed in relation to Kairo, including CPI inflation proofing, and that the quantum of global payments should be reduced by 35% when Kairo ceases to be covered.

(iv) It is agreed that the father will pay Kinara's nursery and school fees on the same terms as was previously agreed for Kairo.

(v) It is agreed that the life insurance provisions previously imposed to cover the obligations in relation to Kairo shall be extended on the same terms to cover Kinara.

(vi) It is agreed that, whilst the mother would wish the father to make similar ISA/Premium Bond/Real Property gifts to Kinara to those given to Kairo, there is no power under Children Act 1989, Schedule 1 to do this and it cannot thus be pursued against the father's wishes. He has indicated that, for the moment at least, he does not wish to make such provision.

14. On a large number of other matters, however, the parties do not agree what should happen and I will need to make a determination. They are:-

(i) The mother would like the provision in the 2022 orders for a 'protected housing budget' of £1,350,000 (upgraded proportionately) in the event of the mother moving outside the 100-mile rule to be completely removed.

The father wishes it to stay in place.

(ii) The mother would like the cohabitation trigger clause included in the Recorder Chandler order to be completely removed. The father wishes it to stay in place.

(iii) The father has agreed to ensure that he will keep a management agent of the mother's Sussex property in place and in funds to the extent of £10,000 at any one time in order to minimise the delay between discovering some item of repair (or equivalent) and the repair being executed. The mother seeks a provision that she should have the absolute right to direct any spending on this fund up to £3,000 on any one item without reference to the father, but the father does not wish her to have that right.

(iv) The mother seeks a lump sum to fund the installation of air conditioning in her Sussex home at a cost of £33,000. The father does not agree to this.

(v) The mother seeks a lump sum to fund the installation of an astroturf football playing area in the garden of her Sussex home at a cost of £31,2000. The father does not agree to this.

(vi) The mother seeks a lump sum to fund some "internal re-modelling" at her Sussex home. The father does not agree to this.

(vii) The mother wishes to have a further furnishing fund of £20,000. The father is prepared to offer £2,500 for this purpose, but no more.

(viii) The mother would like to improve the car replacement mechanism so that the figure of £45,000 is replaced by the figure of £70,000. The father does not agree to this increase, save that he is content to CPI inflation proof the car provision back to April 2022 – this would have the effect of increasing the car replacement budget in March 2025 to approximately £51,000.

(ix) The mother seeks an additional fund of £7,500 plus VAT for the purpose of perfecting and implementing the order I make. The father is prepared for a figure of £2,500 plus VAT to be used for these purposes.

(x) The mother would like the father to create a capital fund now for the payment of nursery school fees plus all school fees for Kinara and Kairo. The father opposes this suggestion, saying he will pay for these items as they go along.

(xi) The mother seeks to impose a global figure for child periodical payments for Kairo and Kinara at a rate of £14,750 pcm (plus future CPI inflation). The father suggests the figure should be £12,500 pcm (plus future CPI inflation).

(xii) There are also disagreements over whether there are arrears of the interim child periodical payments order I made on 10th January 2024 and the Kairo order made by Recorder Chandler in 2022.

(xiii) There is a dispute over the level of child-care funding which should be paid for by the father. The mother seeks 30 hours per week at £30 per hour, i.e. £3,900 pcm, until September 2027 (when Kinara is likely to commence primary school) and 20 hours per week at £30 per hour, i.e. £2,600 pcm, until September 2033 (when Kinara is likely to commence secondary school). The father offers to pay for 24 hours per week at £20 per hour, i.e. £2,080 pcm, until September 2027 and 12 hours per week at £20 per hour, i.e. £1,040 pcm, until September 2033. Whatever the figures, the mother would like this capitalised and paid in one lump sum; but the father offers to pay it as it goes along.

(xiv) Whether I agree with the mother or the father on the level of ongoing nanny fees, it seems to be common ground that the current full-time nanny will not continue. There is a consequential dispute as to whether the father should pay anything extra to facilitate the mother being able to give three months' notice to her current nanny. The father does not agree to pay anything.

(xv) In addition to the above, the mother seeks a further lump sum of £30,000 to purchase a car for the nanny, such car to replaced every three years, with CPI inflation increases in the meantime. The father does not agree to this.

(xvi) Further to all of this, the mother has produced a 'snagging list' of 59 items which she would like carried out in her Sussex home and I shall need to make some comments on this.

LAW

15. I need next to set out some statutory provisions and case law guidance relevant to my task in determining these matters.

16. In deciding what I should order I need to take into account the matters set out in Children Act 1989, Schedule 1, paragraph 4, which reads as follows:-

"4(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including—
(a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
(b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
(c) the financial needs of the child;
(d) the income, earning capacity (if any), property and other financial resources of the child;
(e) any physical or mental disability of the child;

(f) the manner in which the child was being, or was expected to be, educated or trained."

17. The Dictionary of Financial Remedies (2024 edition) gives a helpful summary of how the case law has guided the use of these powers in relation to capital:-

"In deciding what provision to make the court must have regard to all the circumstances of the case including the income, earning capacity, resources and needs of the parents and the relevant child together with any physical or mental disabilities of the child: Children Act 1989, Schedule 1, paragraph 4(1). The welfare of the child is not, by virtue of the statute, either the court's paramount or the court's first consideration, but welfare will have "in the generality of cases, a constant influence on the discretionary outcome" and the child is "entitled to be brought up in circumstances which bore some sort of relationship to the father's current resources and the father's present standard of living" with the caveat that "the court must guard against unreasonable claims made on the child's behalf but with the disguised element of providing for the mother's benefit rather than for the child": Re P [2003] EWCA Civ 837. One parent "should not be burdened with unnecessary financial anxiety or having to resort to parsimony when the other parent was able to live lavishly": A v V [2022] EWHC 3501. "No great significance should be attached to the issue of whether a pregnancy was planned or otherwise": J v C [1999] 1 FLR 152. The duration of the parents' relationship is not in itself a relevant factor but may be relevant to the extent that a child has over time become accustomed to a particular standard of living which affects a reasonable assessment of the child's needs: N v D [2008] 1 FLR. In most cases the most significant element is the provision of capital for housing and the court will have to determine what accommodation is reasonable for the child in the context of available resources. The provision of capital for housing (whether it is made by way of a lump sum or by way of a property settlement or transfer order) should be drafted in such a way that the provision reverts to the payer once the relevant child attains the age of 18 or ceases full-time education: UD v DN [2021] EWCA Civ 1947….Other items which have been held to have a sufficient element of benefit for the child so as to justify lump sum provision include house repairs (Dickson v Rennie [2014] EWHC 4306), motor cars (where, if sufficient funds are available, a once-off figure for a purchase and rolling replacement programme of cars for the child's minority should be considered (PG v TW (No 2) [2012] EWHC 836), furniture and decoration (Re P [2003] EWCA Civ 837) and the statute specifically allows costs "incurred in connection with the birth": Children Act 1989, Schedule 1, paragraph 5(1)(a). Orders have been made to enable the parent with care of a child to clear credit card debts: M-M [2014] EWCA Civ 276 (though care should be taken to avoid a lump sum in lieu of inadequate maintenance). Where there is reason to believe that monies may not be spent on the intended item the court can make directions for the payee to provide proof (Re N [2009] EWHC 11), but this may not be appropriate in most cases. Lump sum orders are limited to singular items of a capital nature (Green v Adams [2017] EWFC)…A lump sum may be appropriate to provide an investment fund for future school fees (Tracey v Tracey [2006] EWCA Civ 734)."

18. In relation to income, some of the above principles, including the broad approach, also apply; but the following matters are worthy of particular comment:-

(i) The court may make child periodical payments orders where there is a CMS assessment placing the payer's income above the maximum applicable amount (£156,000 per annum gross) and "*the court is satisfied that the circumstances of the case make it appropriate*": Child Support Act 1991, section 8(6)(c).

(ii) *"In considering the mother's budget, at least in bigger money cases, the court should paint with a broad brush, not getting bogged down in detailed analyses and categorisations of specific items making up opposing budgetary presentations. Rather, the court should do its best to achieve a fair and realistic outcome by the application of broad common sense to the overall circumstances of the particular case*": *Re P* [2003] EWCA Civ 837.

(iii) In *Collardeau-Fuchs v Fuchs* [2022] EWFC 135 Mostyn J made the following important comments:-

"Drawing the threads together, the cases establish the following propositions:-

(a) When determining a child maintenance application, the welfare of the child must be a constant influence.

(b) A child maintenance award can extend beyond the direct expenses of the children. It can additionally meet the expenses of the mother's household, to the extent that the mother cannot cover, or contribute to, those expenses from her own means. Such an award might be referred to as a Household Expenditure Child Support Award ('a HECSA'). The essential principle is that it is permissible to support the child by supporting the mother.

(c) But a HECSA cannot meet those expenses of the mother which are directly personal to her and have no reference to her role as carer of the child. An example is a subscription to a nightclub. However, the award can meet the expenses of the mother which are personal to her provided that they are connected to her role as a carer. Examples are the provision of a car or designer clothing.

(d) The reasonable level of the mother's household expenses should be judged by reference not only to the present standard of living of the respondent but also, if applicable, to the standard of living enjoyed by the family prior to the breakdown of the relationship. The object of a HECSA is not to replicate either such standard, but to ensure that the child's circumstances "bears some sort of relationship" to them. The standard of living in the parties' home prior to the breakdown of the relationship is "as good a baseline" as any other…the children should be entitled to a lifestyle that is "not entirely out of kilter" with that enjoyed by them before

the breakdown of the marriage, and that currently enjoyed by the father and his family.

(e)The HECSA must be set at such a level that the mother is not burdened by unnecessary financial anxiety.

(f) When assessing the mother's budget, the court should paint with a broad brush and not get bogged down in detailed analyses. Rather, the court should achieve a fair and realistic outcome by the application of broad common-sense to the overall circumstances of the particular case.

Historically, an award over and above the direct expenses of the child was rationalised as being a "carer's allowance," with the unfortunate consequence that in some cases evidence of the commercial costs of nannies was adduced…That approach was disapproved in Re P at [43] and [77(ii)], and rightly so, as a HECSA does not seek to put a value on, or attribute a cost to, the claimant's primary care of the child. That exercise is not only irrelevant - a complete red-herring - but seems to me to have unpleasant transactional overtones. I agree with the judgment of HHJ Horowitz QC in Re V [2012] EWHC B36 (Fam) at [106] where he suggested that the concept of a carer's allowance "is past its utility". I would go further and consign it to the history books."

19. I have been specifically addressed on the issue of whether I should feel in any way bound in my determinations by the 2022 decisions. Ms Gray has gone as far as suggesting that any reliance on the previous decisions would amount to an impermissible adoption of the *res judicata* principle and has cited the Court of Appeal decision in *Re J* [2023] 2 FLR 1206 in support of this argument. Ms Saxton has said that I should pay attention to the earlier determinations in the context of my own decisions, not because I am bound by them in any formal *res judicata* context, but rather because they are part of the developing story here and any fresh application of discretion should take them into account – she points out also that I may also be inclined to agree with them because they are sensible and correct applications of the law to this case. On this disagreement of the legal approach to take, I consider that Ms Saxton's approach is the correct one.

ANALYSIS

20. I shall start by considering "*the income, earning capacity, property and other financial resources"* which each of the parties *"has or is likely to have in the foreseeable future".* I make the following comments.

21. It is common ground that the father is a wealthy man in terms of capital and currently also in terms of income.

22. His capital position does not need to be set out in minute detail, but broadly it is represented by the table below:-

50% share in Cheshire family home	1,850,000
90% (deferred) share in the mother's Sussex home	2,120,000
Other real property interests, including holiday chalet	662,900
Bank accounts in sole name	4,893,247
Investments in sole name	9,561,833
Company holding the father's image rights	5,338,442
Other corporate interests	1,164,569
Watches and motor cars	1,200,000
Outstanding Legal Costs [1]	-76,436
TOTAL	**26,714,555**

23. His current income position can also be set out broadly. His income as a professional footballer (including basic pay, image rights, performance bonuses and success fees and international fees) is in the region of £7,000,000 to £10,000,000 per annum gross or approximately £3,500,000 to £5,000,000 per annum net. As an elite Sportsman, earning at this level is time-limited by age and, at age 34, he has a limited number of years at the height of his powers (he is currently contracted by Manchester City until 2026). At some stage not very many years in the future he will cease to be a player and it is not yet clear what he will then do – although plainly some players continue earning significant amounts by moving to coaching/management or media work, not all can do this – and it is reasonable to suppose that his income will in due course be significantly lower than it is now and will, to a greater or lesser extent, have to live off the capital he has accrued and the income derived from that capital.

24. On any view, however, the father is in a position, now and in the foreseeable future, to meet and afford reasonable financial claims made against him by the mother. It is common ground that affordability is not an issue here.

25. It is equally common ground that the mother is, apart from what she receives from the father, really quite impecunious in terms of income and capital.

26. Her capital position, likewise, does not need to be set out in minute detail, but broadly it is represented by the table below:-

Minority share of her own mother's home in Sussex[2]	75,000
Bank accounts in sole name	18,461
Monies owed to grandparents	-59,900
Credit card debts	-3,996

[1] This figure is based on a total of incurred fees of £171,440 less a total of fees paid of £95,004 = £76,436

[2] I propose to take the mid-point of the figures argued; but in any event this sum is not practically realisable at the moment because it represents her own mother's home.

Outstanding Legal Costs [3]	-18,688
TOTAL	**10,877**

27. Her income position (apart from receiving maintenance from the father) is a little opaque; but she seems to receive a modest amount of money from her work as an 'influencer' and has received ad hoc payments, also of a relatively modest nature, from media projects such as Channel 4's '*Celebs Go Dating'* and ITV's putative *"Wannabee WAG"* reality show, which appears in the end not to have been commissioned. She does not appear to plan to move to any employed work but would wish to develop her life as 'a celebrity'. Whether this proves to be a remunerative plan in the future is not entirely clear, but it would be wrong, I think, for me to assume that she currently has a significant earning capacity which should make a real difference to the outcome of this case and this has not formed a part of the father's case before me.

28. In addressing the issue of "*the financial needs, obligations and responsibilities which"* each of the parties *"has or is likely to have in the foreseeable future",* I propose mainly to deal with this in the context of the particular disputes which I have outlined above as requiring to be resolved.

29. I propose, however, to make a number of general comments.

30. I note Recorder Chandler's assessment of the parties' reliability as witnesses, when he said, in March 2022:-

"Having listened carefully to the Mother's evidence, I regret to say that I found her evidence wanting in several respects. She generally found it very difficult to give a straight answer, she argued with counsel, asked questions back and, in my judgment, sought wherever possible to argue her case rather than give simple, straightforward answers…The Mother showed a remarkable lack of insight in relation to her own spending. On occasion, she sought to answer a question by going onto the attack. When asked about whether she was worried about overspending, she acknowledged she was worried but then said "…that really upset me – the fact that Kyle doesn't want to provide the same level of support for his other children"…While it may serve the Mother's purpose to see herself as the victim in this case, I cannot see any proper basis for suggesting that the Father has sought to 'punish' the Mother or deny her proper financial support. In my judgment, this is a fantasy on the Mother's part which enables her to avoid responsibility for her actions which amount to spending money as if it was going out of fashion…I also bear in mind that the Mother does not have a good track record when it comes to telling the truth. The Mother has a conviction for benefit fraud relating to misappropriate of £21,000… She said to counsel "I find it upsetting you're using this [her conviction]". The Mother was in my judgment seeking to deny any responsibility, to the extent that she appeared to be looking for sympathy by reference to her ill health or her parents' divorce. I regret to say I do not

[3] This figure is based on a total of incurred fees of £259,298 less a total of fees paid of £240,610 = £18,688

consider that the Mother's answers in relation to her conviction were either truthful or straightforward….My overall conclusion is I must treat the Mother's evidence with great deal of caution. I do not accept that she either tried or did give this court an honest and clear account of the background. In my judgment, the Mother she said whatever she felt would best advance her claim.

The Father by contrast was a perfectly straightforward witness. He gave his answers in an even and thoughtful tone. He answered every question clearly, explained his position, and made appropriate concessions. He did not argue with counsel but freely agreed that he could and should have resolved the housing fund earlier in the proceedings, to the extent of offering an apology on that issue to the Mother. The Father's evidence about his friendship with the Mother was believable and his answers about Kairo demonstrated commendable maturity: "I also agree that being a single mum is very hard and she needs time to herself. But I'd like to know that she has a plan [for why she wants a nanny]". The Father's evidence in relation to the Mother's debts and the need for a nanny was balanced and demonstrated a grounded and reasonable approach to life. "She needs to be accountable for her actions in some of the things she has done", "In this world you can't just rack up debt and expect that someone else will pick that up. I cannot be held accountable for this bad decision taking". In my judgment, in relation to Kairo, the Father expressed what I consider to be genuine regret not that he cannot presently play a role in Kairo's life. The Father was in my judgment an entirely truthful witness. I conclude that wherever the evidence of the parties is in conflict I must prefer the evidence of the Father."

31. I am entirely free to make a different assessment of the parties to that of Recorder Chandler and I am in no sense bound by what he said; but the assessment quoted above entirely accords with my own overall assessment of the parties. In my view the father's presentation before me was sensible, honest and reliable. Where he felt that the mother may have a point, he readily conceded it with some grace, generosity and kindness. Plainly, he was embarrassed and remorseful as to the difficult situation in which he has placed a number of people, including all of his children, and regretted his decision-making in trying to keep his paternity of Kinara a secret; but he has in my view acted with dignity and generosity (and, once the secret was out, honesty) in facing up to the financial and personal consequences of what happened. In contrast, my assessment of the mother is that she was not reliable, often said what she thought would help her case rather than what was true, failed to make a calm and measured assessment of what she needed and often exaggerated her need to spend money (I think the father was correct to observe that the mother was in many ways treating him as an open-ended cheque book). She was unable to give any credit to the father for the reliable and generous financial support he has in fact given her and was happy to take every point against him. She made few concessions where concessions might have been appropriate, for example in relation to the appropriateness of her threats to move to Cheshire near the father's home. She went out of her way to blame the father for all the newspaper coverage that has been received when I am entirely satisfied that she was overwhelmingly responsible for it, save for the one *mea culpa* interview he gave in late January 2024, which is perhaps more to his credit than otherwise.

32. I shall now resolve the disputed areas against the above legal principles, case law guidance and facts.

The Protected Housing Budget

33. The mother would like the provision in the 2022 orders for a 'protected housing budget' of £1,350,000 (upgraded proportionately) in the event of the mother moving outside the 100-mile rule to be completely removed. The father wishes it to stay in place.

34. I should remind myself that this provision, although perhaps unusual, was imposed by the DDJ Burles order by consent as part of a 'deal', the other side of which was that the housing budget was increased from £1,350,000 to £1,850,000. In fact, the father went further and made £2,400,000 available as a housing budget, not because he accepted that this was needed, but because the mother asked him for this and he acceded. I also remind myself that there was a specific reason for its inclusion, that the mother was threatening to move her home close to the father's family home in Cheshire. Having heard the evidence, this reason and this justification still very much exists. I also remind myself that, in his evidence, that the father readily conceded that the 60-mile rule could be extended to 100 miles. There is no reason for thinking that the mother faces any injustice because of this clause. There is no reason why she should move out of her current home and/or anywhere within 100 miles of her current home and there is no evidence before me to suggest that the figure of £1,350,000 (proportionately upgraded) would not adequately house her in a suitable home outside the 100-mile limit.

35. I certainly have the jurisdiction to remove this clause, but in my view it would be inappropriate and unfair for me to do and I shall not accede to this demand by the mother.

The cohabitation clause

36. The mother would like the cohabitation trigger clause included in the Recorder Chandler order to be completely removed. The father wishes it to stay in place.

37. The clause (which is reproduced from the Standard Family Order) says:-

"Simultaneously with the purchase of the new home the Respondent shall grant the applicant a Tenancy allowing the applicant and the child of the relationship to occupy it rent free to the exclusion of the respondent until the first to happen of the following events ("the determining event")… The applicant's re-marriage or cohabitation with another person as man and wife for a continuous period of 6 months…provided that in any event the property shall not be sold without the permission of the court while

any child of the relationship in occupation of the property is still a minor or of full age but receiving full time education or training (including one gap year)."

38. The mother argued against this clause before Recorder Chandler in July 2022 and lost and did not appeal on this point. The clause was not removed by the DDJ Burles order and the Sussex property was purchased in August 2023 in the context of an express agreement that this would continue to apply. It is not an uncommon clause to see in these orders and any risk to the mother is ameliorated by the caveat which requires the court's leave before any sale can occur. If the mother cohabited with another wealthy man she would probably not still require the current property, but if she cohabited with an impecunious man she almost certainly would still require the current property (and an order for sale would probably not be permitted by the court) so it is difficult to see any significant injustice arising from the inclusion of this clause.

39. I certainly have the jurisdiction to remove this clause, but in my view it would be inappropriate and unfair for me to do and I shall not accede to this demand by the mother.

The mother's access to the management fund and the 'Snagging List'

40. The father has agreed to ensure that he will keep a management agent of the mother's Sussex property in place and in funds to the extent of £10,000 at any one time in order to minimise the delay between discovering some item of repair (or equivalent) and the repair being executed. The mother seeks a provision that she should have the absolute right to direct any spending on this fund up to £3,000 on any one item without reference to the father, but the father does not wish her to have that right.

41. My conclusion on the evidence I have heard suggests that the father is reliable and conscientious in the way which he has dealt with property management issues. In contrast, my impression is that the mother is often difficult, unreasonable and demanding. These conclusions are partly informed by the oral and written evidence before me and are corroborated by a convincing email dated 1st July 2024 from the property manager Tracey Lewis (albeit that she is paid by the father) who said: "*I would add that at all times, both John Bower and Kyle Walker have been swift to come back to me on instructing the works required, although I have mainly communicated with John, funds to cover the works have been sent within 24 working hours as and when required….All communications with Lauryn are generally through Business Whatsapp, multiple messages can be sent to me within a few minutes at times, my requests to call Lauryn to discuss over the phone are generally not permitted, Whatsapp is a brief message system and it is difficult to sometimes find out all information needed to effectively get to the point of what actually needs addressing."*

42. I have reached the clear conclusion that it would not be appropriate to give the mother the access to these funds which she seeks. I have a real fear that this access would be abused by her and there is nothing in the evidence that I have seen to suggest that the father (via his agent) is not dealing with matters which arise on a perfectly reasonable basis.

43. Further, the mother has (quite recently) produced a 'snagging list' of 59 items which she would like carried out in her Sussex home. Tracey Lewis has produced a helpful initial response to some of these items, but many of these come into the category of 'an inspection will be needed to establish the nature of the complaint'. Some of the responses suggest that the repair work has already been done – others point to the mother's obligation under the Recorder Chandler order to deal with "*internal routine maintenance and routine upkeep*". Other responses, for example the provision of stair safety gates, suggest (in my view perfectly sensibly) that these should be the responsibility of the mother.

44. Ms Gray accepted that it would not be appropriate for me to deal with this snagging list on a line-by-line basis, like a building dispute. Even if I was minded to do this, I would need a Scott schedule, photographs, perhaps an independent expert's report to do this and I have none of these.

45. In view of my conclusions about the responsible attitude of the father and his agent on these matters, I have no reason to believe that the father will not deal with any meritorious aspects of the snagging list and I do not propose to make any order in relation to it and would encourage the parties to compromise any of these disputes without recourse to the court.

Air Conditioning, Astroturf and Internal Re-modelling at the mother's home

46. The mother seeks a lump sum to fund the installation of air conditioning in her Sussex home at a cost of £33,000. The father does not agree to this. The mother's justification for this spending is that her Sussex home is South facing, has a substantial amount of glazing and that at times of fine weather it would be too hot to occupy comfortably without air conditioning. A picture of a thermometer at 31 Degrees has been produced in support of this proposition together with two supportive letters from an estate agent and an air condition installer (who said "*the heat will be unbearable in the summer, you will especially struggle to sleep at night*").

47. I was not persuaded that this demand by the mother was either necessary or reasonable. As the father said, on the fairly small number of days in England when it is very hot, any discomfort can usually be dealt with by closing blinds/curtains and deploying a modestly-priced electric fan. That is what happens in his home, he said, and although he conceded that it may be generally a little colder in Cheshire than in

Sussex, he thought (and I agree with him) that air conditioning is rarely needed in an English home. In all the circumstances I was not persuaded by the mother's demand here.

48. The mother seeks a lump sum to fund the installation of an astroturf football playing area in the garden of her Sussex home at a cost of £31,200. The father does not agree to this. I remind myself that Kinara has just turned one year old and is not yet walking. I remind myself that the Sussex home was the mother's choice and that it has an extensive garden which includes paved areas and grassed areas, both of which may be suitable for ball games. The mother surprisingly justified her demand for astroturf by saying that Kinara, by kicking a ball with her left foot from a crawling position, has shown a talent which may suggest a future career as a professional footballer qualified to become a 'Lioness'. I fear that is an unjustified evidential leap. The father accepted that he does have an astroturf playing area at his home, albeit one which was there when he moved in, and I note that some of the children by his wife are older. In all the circumstances I was not persuaded by the mother's demand here. I was not persuaded that this demand by the mother was either necessary or reasonable in the context of all the circumstances.

49. The mother seeks a lump sum to fund some "internal re-modelling" at her Sussex home. The suggested figure for this was £4,000. The father does not agree to this. The evidence I heard suggested that the mother has actually already done what she wanted to do here and, in any event, I was not persuaded that this work was really necessary. In all the circumstances I was not persuaded by the mother's demand here.

Furniture Fund

50. The mother wishes to have a further furnishing fund of £20,000. The father is prepared to offer £2,500 for this purpose, but no more.

51. It is appropriate to consider this item in the context of the fact that the mother received £75,000 as a furnishing fund in the Kairo proceedings (which she has spent, generally without any great concentration on economy – even if it did not include anything specifically for Kinara, she will undoubtedly benefit from some of the items) and the father also has already made capital payments for Kinara's 'capital needs' as a baby of £30,000. I also note that on 10th February 2024 the father made an offer of £15,000 for this item. The mother has produced a detailed list of things she would like to buy for Kinara which total nearly £30,000, although much of this list seems to me to be exaggerated and a 'wish-list'.

52. The father's view is that the mother is trying to make the house into a show-home and that the mother already has, or should have, everything she needs by reason of his earlier payments.

53. Doing the best I can to strike an appropriate balance here in all the circumstances I have reached the conclusion that it would be reasonable for the mother to have a further lump sum of £5,000 as a furniture fund specifically targeted at Kinara's needs, and in particular her bedroom, but I have not been persuaded above that figure.

Motor Car

54. The mother would like to improve the car replacement mechanism from the earlier order so that the figure of £45,000 is replaced by the figure of £70,000. The father does not agree to this increase, save that he is content to CPI inflation proof the car provision back to April 2022 – this would have the effect of increasing the car replacement budget in March 2025 to approximately £51,000.

55. I remind myself that this figure was set in 2022 by Recorder Chandler and was not appealed or improved upon by the DDJ Burles order. I have the jurisdiction to interfere and change the level established by Recorder Chandler, but I struggle to see any compelling reason to do so.

56. I am not persuaded that the sort of motor car which the mother has now, or that which she could purchase in March 2025 for £51,000, is other than entirely adequate for transporting around two young children. The addition of a second child really makes very little difference to this.

57. The mother's complaint is that she only really wants a Mercedes GLE and that nothing else will do and that they cannot be purchased for £51,000. I do not find this a persuasive argument. My attention has been drawn to the fact that the father owns yet more expensive motor cars; but the law does not in my view require the father exactly to reproduce his car budget for the mother. It suffices if her provision is suitable, adequate and reasonably commensurate with his and I am satisfied that the current arrangements, with the CPI uplift incorporated, more than adequately meet the mother's needs.

58. In all the circumstances I was not persuaded by the mother's demands here.

Solicitors' Implementation Costs

59. The mother seeks an additional fund of £7,500 plus VAT for the purpose of perfecting and implementing the order I make. The father is prepared for a figure of £2,500 plus VAT to be used for these purposes.

60. It is difficult to tell how much lawyers' time will be needed to draft and implement my order. It will depend on how many arguments there are and, whilst I am attempting to produce clarity, the history of this case suggests that the lawyers will find something to argue about and it is in everbody's interest that the order is settled and implemented as quickly as possible.

61. On this I am minded to split the difference between the two sides and award £5,000 plus VAT for these purposes. If it is not used, then it should be returned to the father.

Capital Fund for Nursery and School Fees

62. The mother would like the father to create a capital fund now for the payment of nursery school fees plus all school fees for Kinara and Kairo. The father opposes this suggestion, saying he will pay for these items as they go along (as per the 2022 orders).

63. It is correct that the court has the power to deal with these fees in the way demanded by the mother and, if it had been established that the father was unreliable, or a flight risk, then I may have been tempted to do this; but this is absolutely not my impression of the father. I accept his evidence that, even if he engaged in an end-of-career period with an overseas club (for example in Saudi Arabia) his home would still be England. I accept his evidence that he will always be reliable and available to pay these fees.

64. Further, I have little confidence in the mother's ability to deal with such a trust fund in a reliable and sensible way and I understand the father's anxiety about having to operate a joint account with the mother or otherwise running a joint trust fund. I note that Sir Jonathan Cohen reached a similar conclusion about the dangers of having a capitalised nanny fund in his May 2022 judgment.

65. My conclusion is that there is no need for the capitalisation of the school and nursery fees and that it would make the arrangement more difficult rather than easier. I go one step further and shall, despite the mother's rather irrational objections, direct that that the father, via an agent if he wishes, have direct contact with the bursar of any school or nursery attended by Kairo or Kinara so that the appropriate fees can be paid by the father without the mother having to be involved. I would hope and expect that this will deal with some of the administration problems which have occurred in this area.

Global Child Maintenance

66. The mother seeks to impose a global figure for child periodical payments for Kairo and Kinara at a rate of £14,750 pcm (plus future CPI inflation). The father suggests the figure should be £12,500 pcm (plus future CPI inflation). In each case they agree

the structure of the order (including a 35% reduction when one child drops out) so the matter for me to resolve is quantum.

67. The father's offer would produce for the mother some £150,000 per annum in tax-free income. An individual would have to earn about £300,000 per annum gross to receive this net income. In addition, the mother will have all her housing and motor car costs met. It is, on any view, a very significant income. If it is not at the level of a premiership footballer, it might be difficult to argue that it is not broadly commensurate with it or that it is out of kilter with it or that it is out of kilter with what the father spends from his income (preferring to a significant extent to accrue capital).

68. So how does Ms Gray on behalf of the the mother seek to persuade me that the figure should be yet higher, i.e. £177,000 per annum?

69. She does this by putting forward a budget which has as its bottom line a figure of £17,931 pcm. Ms Saxton has produced a line-by-line comparative budget (see p.816 of the exhibits bundle) which has as its bottom line a figure of £10,374 pcm.

70. I propose to apply a broad brush to this exercise, and do not propose to give an assessment on each and every line, but I am satisfied that the fair and correct figure is much closer to the bottom of this comparison table and I have not been persuaded that there is a case for going above the figure offered by the father of £12,500 pcm. I am persuaded that what the father has offered is fair and reasonable, some would say it is generous, and I have not been persuaded that I should go any higher.

Nanny costs

71. The issue of child-care costs has been dealt with in 2022 by Sir Jonathan Cohen. I have set out above what he said. Since this is a fresh application, I am not formally bound to adopt what he said, and in any event there are now two children, but I have found it difficult to disagree with either the sentiment or the detail of his judgment. Ms Gray suggested that it would not be correct to say that it is <u>never</u> appropriate to allow child-care to allow a mother to redevelop her career, and she suggested that Sir Jonathan Cohen was not correct to say this (if he did), but (whatever the merits of this argument generally) I am entirely satisfied that it was the correct answer for the present case. I agree with Sir Jonathan Cohen that it is reasonable here to make some provision for child-care in the nature of respite care. Sir Jonathan felt that, when there was one child, fair provision would be additional child periodical payments in respect of child-care costs in the sum of £1,386 pcm until August 2025 (the start of Kairo's primary school) and then at the rate of £1,040 pcm until September 2031 (the start of Kairo's secondary school).

72. My task should, in my view, be to recast the spirit of Sir Jonathan Cohen's order into a situation where there are two children of Kairo and Kinara's ages.

73. The mother seeks 30 hours per week at £30 per hour, i.e. £3,900 pcm, until September 2027 (when Kinara is likely to commence primary school) and 20 hours per week at £30 per hour, i.e. £2,600 pcm, until September 2033 (when Kinara is likely to commence secondary school). The father offers to pay for 24 hours per week at £20 per hour, i.e. £2,080 pcm, until September 2027 and 12 hours per week at £20 per hour, i.e. £1,040 pcm, until September 2033. Whatever the figures, the mother would like this capitalised and paid in one lump sum; but the father offers to pay it as it goes along.

74. My view is that, again, the father's offer is fair and reasonable both in terms of the number of hours per week and the quantum per hour. That is the outcome I propose to adopt.

75. The only difference that I would impose is that the £20 per hour should be CPI inflation proofed with effect from May 2022 (the date of Sir Jonathan Cohen's judgment). I do not propose to backdate the figures in the context of awarding arrears, but the upgraded figure will start from now, i.e. from 1st August 2024 and be applied in May each year in the future.

76. I have not been persuaded that there should be anything extra arising out of the apparent need to give the existing nanny three months' notice (the mother should have sorted this out before).

77. I do think it may be appropriate, however, for the nanny to have access to a run-around car so that the children can be transported around while the mother is enjoying her respite; but I think that £30,000 is far too high and I propose to award the figure of £12,000 for this on the basis that a reasonably suitable nanny car can be purchased for this sum, but this sum should be conditional on the mother presenting evidence to the father that she has employed a nanny with a current full driving licence. It should not be necessary to replace this any time soon and I therefore do not propose to include a recurring figure for the nanny's car.

Arrears

78. There are also disagreements over whether there are arrears of the interim child periodical payments order I made on 10th January 2024 and the Kairo order made by Recorder Chandler in 2022.

79. Having heard the arguments on this, and looked carefully at the arguments advanced by each Counsel, I have reached the following conclusions.

80. I think it was an error by the father to make the deductions from the Kinara interim child periodical payments over in the five months between February and June 2024. It has caused distress and mistrust, even if there was some mathematical justification for some deduction. Indeed, the father told me he rather regretted this decision.

81. I accept, however, the logic of Ms Saxton's table and have been persuaded that her figure of net arrears of £16,176 is correct. This figure should be paid forthwith.

82. In relation to the arrears on the Kairo order the arrears position has been complicated by the fact that the mother's Solicitors miscalculated the amount due and that the father made some voluntary extra payments. Taking a broad view, I have reached the conclusion that these arrears, if they exist, should be remitted and I therefore do not propose to make any order for payment.

83. In relation to the costs incurred in pursuing the arrears I propose to summarily assess the costs at the figure requested on the enforcement application for the arrears of interim maintenance, i.e. £2,020, and order that this sum should be paid. I do not propose to allow any costs for the other enforcement application, which I consider was unnecessarily incurred.

84. I do not propose to make any costs order in relation to the father's late adjournment application. In my view the mother's team could and should have been more flexible than they were and there was really no need to incur a large costs bill in dealing with this. The issue really did little more than generate a few emails in any event.

TRANSPARENCY ISSUES

85. I now return to the transparency issues.

86. In this context I have heard from Ms McNeil-Walsh for Associated Newspapers (whose views were supported by Ms Saxton for the father) who has argued that I should reach the conclusion which permits the newspapers to publish (with a few targeted exceptions) information about these proceedings, including my judgment, without redaction or anonymisation.

87. I have also heard from Ms Gray for the mother who argued for the interim transparency order to be made final so that, in effect, there should be an almost complete prohibition of publication of information in relation to these proceedings.

Any published judgment, she argued, should be redacted and/or anonymised so as to prevent the identification of the parties.

88. A starting point here is that, because these are Children Act 1989, Schedule 1, proceedings, Administration of Justice Act 1960, section 12(1) prevents the publication of any information relating to the proceedings. Further, Children Act 1989, section 97(2) prevents the publication of any material likely to identify a child involved in proceedings.

89. These provisions can, however, be dispensed with if a disclosure is authorised by the court. The task of the court here is explained in judgments such as *Re Webster* [2006] EWHC 2733, *Re S (A Child) (Identification: Restrictions on Publication)* [2004] UKHL 47 and *Griffith v Tickle* [2021] EWCA Civ 1882. Any decision by the court to dispense with these provisions and to authorise disclosure should be taken by an "*intense focus on the comparative importance of the specific rights being claimed in the individual case*", i.e. a balancing of the Article 8 and 10 Convention Rights involved and the justifications for interfering with them, with a proportionality test applied to each. The best interests of the children are a primary, but not a paramount consideration. The question to be asked is: Are the best interests of the children involved weighty enough to justify maintaining the statutory fetter?

90. The court's decision must be made against the background of the general guidance on transparency in the family courts (see *Confidence and Confidentiality in the Family Courts*, 28th October 2021) and the specific guidance in relation to financial remedies proceedings (see *The Transparency Reporting Pilot for Financial Remedy Proceedings: Guidance from the President*, 15th December 2023 – the pilot which has been running in the Central Family Court and some other courts since 29th January 2024); but the decision of course must be made on the facts of a particular case.

91. It is common ground that the press should not publish the addresses of any of the individuals involved, save in a very broad sense identifying the county in which the homes are situated. It is common ground that the press should not publish the bank account details of the parties. It is common ground that the press should not publish photographs showing the children's faces. My judgment has, with this in mind, deliberately steered clear of including anything in any of these categories.

92. The mother argues that I should go beyond that and prohibit the publication of the names of the parties and the children and that, if the judgment is to be published at all, it should be anonymised and redacted. The children's privacy should be protected, she suggests, and that should dominate all other considerations. The father and Associated Press oppose this, in essence saying that the 'cat is out of the bag' already and, in this case, the interests of open justice and the right of the press to report on the work of the family courts and to scrutinise its operation and decisions should prevail.

93. It is quite rare for a judge in a financial remedies case, in particular in a Children Act 1989, Schedule 1 case, and it is certainly quite rare for me, to reach a clear conclusion that (subject to the few targeted matters above) the normal confidentiality restrictions should be dispensed with and that my judgment should be publicly reported without redaction or anonymisation, but that is the conclusion which I have reached here. In reaching this conclusion I have in mind all the authorities and legal principles referred to above. The dominant feature in my reaching this conclusion is that argued by Ms McNeil-Walsh when she wrote: "*The parties are well-known celebrity figures and there has already been substantial reporting of the long-running dispute between them. Much of this reporting has been the result of one or both of the parties themselves putting information into the public domain. Given what is already in the public domain, it would be artificial to suggest that the parents could not be identified if there was reporting of these proceedings on an anonymised basis. The mother in particular has repeatedly placed in the public domain – both via the media and via her public social media profile – images, video and audio of the parties' children, together with various statements about the father and his marriage to Ms Kilner. In those circumstances, any Article 8 rights are of limited weight in the Re S balancing exercise…In the particular circumstances of this case, there is no reason to suppose that the reporting of these financial remedy proceedings will cause further detriment to the welfare of the parties' children*".

94. I agree with what Ms McNeil-Walsh has said. It would be a nonsense, opening the court to ridicule, to try to redact or anonymise this judgment to prevent identification of the parties. Further, a perusal of the many hundreds of newspaper articles published about these matters clearly illustrates that the mother has not just cooperated with, but actively instigated, press coverage placing in the public domain her own children, the circumstances of their conceptions and what she thinks about the father. It sits ill for a person to come to court arguing for privacy for her children when, just a very short while earlier, she took a payment from the press to visit the European football championship with her son dressed in an England football shirt with the name 'Daddy' on the back, and to be willingly photographed doing this to provide journalistic fodder which the newspapers were only too happy to use. If the children suffer any harm from the publicity of these matters, it has already happened, and it will largely be the result of the mother's own decisions and actions. For me, on the facts of this case, the balancing exercise must come down against the mother's argument. For me, the right of the press to scrutinise and comment upon the court's procedures and decisions, and what the mother has requested of the father and how he has responded, are on this occasion a greater priority.

95. This conclusion applies also in relation to the press being permitted to name the children involved here. The names of the four children of the father's marriage are very frequently cited in many of the press articles referred to above, as is the name of the parties' older child Kairo. The name of the parties' younger child Kinara does appear in some coverage, but certainly less than the others, although I have noticed that the mother sometimes appears in photographs with a necklace including the initials 'KW', although this could refer to either of her children (or indeed the father). I can see no benefit to the children or anybody else in the court trying to impose restrictions to prevent the reference to the names of the five children already widely

publicised. How would they be helped if a newspaper article referred to un-named children whose names are already well known in the public domain? It would in my view also be quixotic and unhelpful to impose a restriction just on Kinara's name when the other children were being named (and in any event it is very possible to find Kinara's name on the internet with a small amount of searching). I also consider it very likely, having heard her evidence, that the mother will be tempted, one way or another and whatever any transparency order says, to seek defiantly to put in the public domain her views about the court's findings and also further views she may have about the father. In these circumstances it is my view preferable that anybody interested in the topic should have the opportunity to read the full independent account contained in this judgment before reaching any conclusions about what has happened.

96. Accordingly, I propose to make a final transparency order which (save for the few targeted items referred to above, allows reporting of this judgment un-anonymised and un-redacted and I will place it on TNA in its current form) does not interfere with the wishes of the press to publish such material as they wish. For the avoidance of doubt, and lest either party seeks to make further submissions on this, or to seek to appeal with a stay in the meantime, the interim transparency order will remain in place for the time being.

97. This is my decision and I invite counsel to produce a draft order which matches these conclusions. Could I ask that I receive a draft order or a written explanation as to why this has not happened by 6th August 2024.

98. I am sending the judgment out today, 23rd July 2024, and the 21-day appeal period will run from this day (save if I extend it by an order). My hope is that the order can be agreed and approved without another court hearing, but if this proves optimistic I shall convene a hearing by a further order.

99. If there are costs submissions, then I will try dealing with them by emailed submissions unless I decide otherwise.

HHJ Edward Hess
Central Family Court
23rd July 2024