NEUTRAL CITATION NUMBER: [2024] EWFC 314 (B)

CASE NO: ZW19P01074, ZW21P00844, ZW22P00393

IN THE FAMILY COURT AT WEST LONDON

IN THE MATTER OF THE CHILDREN ACT 1989

BETWEEN

F

Applicant father

and

M

First Respondent mother

and

P

(by her NYAS Case-worker)

Second Respondent child

DATE: 23 September 2024

Ms Janet Bazley KC and Ms Melissa Elsworth (instructed by Helen Fitzsimons Family Law) for the Applicant

Mr Paul Hepher (instructed by Stowe Family Law) for the 1st Respondent

Mr Malcolm Chisholm (instructed by NYAS) for the 2nd Respondent

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FINAL HEARING JUDGMENT OF DISTRICT JUDGE SAUNDERS

Introduction

1. The Court is concerned with the welfare of P; she is 15 years old. P is currently subject to a Child Protection Plan (CPP) due to concerns around Child Sexual Exploitation.

2. The parties and their representatives are as follows;

    - Applicant Father hereinafter referred to as "F". He was represented by Leading Counsel Ms Bazley KC and Junior Counsel Ms Elsworth who were instructed by Helen Fitzsimons Family Law.
    - Respondent Mother is hereinafter referred to as "M". She was represented by Mr Hepher who was instructed by Stowe Family Law.
    - P was represented by the NYAS Case-worker (Guardian), hereinafter referred to as "G". G was represented by Mr Chisholm who was instructed by NYAS Legal.

Background

3. I have already given a number of judgments in this matter, for some there are transcripts available, there is also a bullet point judgment, two schedules of findings and a lengthy and detailed written judgment from the combined fact find and final hearing which concluded on the 3rd November 2023. In light of this, I will not set out the detailed background as this judgment is to be read and considered in conjunction with those other documents. Suffice to say these proceedings have been ongoing for almost three years, and have been reserved to myself since May 2022.

4. Since the last hearing P has remained living with F while having supervised contact with M. There continues to be a Child Protection Plan for P as a result of concerns about her being sexually exploited, which stems from her poor decision making. This living arrangement was initially planned to be for a period of three months, however M did not complete the work required and the listing issues with the courts, in general, meant this matter could not be listed to facilitate that timeframe.

Separate representation of P

5. The issue of the weight I should give to P's wishes and feelings and if she should be separately represented continues to be a live issue in this matter. It has been raised

throughout by M and continues to be opposed by F and G and their positions being in accordance with the expert opinion.

6. I considered separate representation at the PTR, where I adjourned the decision to the first day of the final hearing. I have had the benefit of a detailed email by Ms Singleton, who is a manager at NYAS. She has met with P and provided her professional opinion on if P is competent to instruct her own representation. She set out that this is a very balanced case, so much so that she would have requested an expert report. However, we are fortunate that one is already available, prepared by Dr Hessel Willemsen (hereinafter referred to as Dr W), which recommends P is not competent. Further, Ms Singleton prepared a Position Statement on behalf P for this hearing, which P did not respond to and therefore hasn't been approved by her. On the first morning of this final hearing I gave an extemporaneous judgment which determined that P was not competent and should not have separate representation. My conclusion was in line with that of all the professionals.

7. I kept this matter under review throughout the duration of the final hearing, in light of the emerging evidence. None of that evidence caused me to change my mind.

Issues

8. This hearing took place on the 8th, 9th, 10th and 12th July 2024 as a final hearing. The issues which I needed to determine as part of the hearing were:

   a. Appropriate living arrangements for P, including if weekly Boarding at her current school should be considered as an alternative to her living with either F or M;
   b. Whether a section 91(14) order should be made and if so the duration of this;
   c. What, if any, protective orders are required including section 8 orders and/or the non-molestation order. If I do consider them to be required then the scope and duration of these orders, including if they should be enforceable beyond P's 16th Birthday;
   d. If the previous judgments and therefore by extension this judgment, should be reported; and

e. If M should make a financial contribution to the costs of P's therapy and/or Trish Barry-Relph's (hereinafter referred to as TBR) most recent report;
f. If I make an order for contact to remain supervised in the longer term, who should be responsible for the costs of the contact.

Law

9. I set out here the law that applies for the purposes of my determinations.

Burden and Standard of Proof

10. A summary of the law relating to the burden and standard of proof was set out by MacDonald J in ***AS v TH, BC and NC and SH [2016] EWHC 532 (Fam)***:

"*Burden and standard of proof and evidence*

23. The burden of proving a fact is on the party asserting that fact. To prove the fact asserted that fact must be established on the balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. As has been observed, "Common sense, not law, requires that in deciding this question regard should be had, to whatever extent appropriate, to inherent probabilities" (Re B[2008] UKHL 35 at [15]).

24. The decision on whether the facts in issue have been proved to the requisite standard must be based on all of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors (A County Council v A Mother, A Father and X, Y and Z[2005] EWHC 31 (Fam)). Where the evidence of a child stands only as hearsay, the court weighing up that evidence has to take into account the fact that it was not subject to cross-examination (Re W (Children) (Abuse: Oral Evidence)[2010] 1 FLR 1485).

25. If a court concludes that a witness has lied about one matter, it does not follow that he or she has lied about everything. A witness may lie for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure (R v Lucas [1981] QB 720).

26. The court must not evaluate and assess the available evidence in separate compartments. Rather, regard must be had to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward has been made out on the balance of probabilities (Re T [2004] 2 FLR 838 at [33]).

27. There is no room for a finding by the court that something might have happened. The court may decide that it did or that it did not (Re B [2008] UKHL 35 at [2]). However, failure to find a fact proved on the balance of probabilities does not equate without more to a finding that the allegation is false (Re M (Children) [2013] EWCA Civ 388)."

Transfer of Residence

11. As the President made clear in ***Re L (A Child) [2019] EWHC 867 (Fam)***, the Court cannot put a '*gloss on to the paramountcy principle'*: a change/transfer of residence (whether interim or final) should not be treated as a '*last resort'*, should not be described in terms such as '*draconian*', and the Court should not apply the public law test for separation:

"*59. Having considered the authorities to which I have referred, and others, there is, in my view, a danger in placing too much emphasis on the phrase "last resort" used by Thorpe LJ and Coleridge J in Re: A. It is well established that the court cannot put a gloss on to the paramountcy principle in CA 1989, s 1. I do not read the judgments in Re: A as purporting to do that. The test is, and must always be, based on a comprehensive analysis of the child's welfare and a determination of where the welfare balance points in terms of outcome. It is important to note that the welfare provisions in CA 1989, s1 are precisely the same provisions as those applying in public law children cases where a local authority may seek the court's authorisation to remove a child from parental care either to place them with another relative or in alternative care arrangements. Where, in private law proceedings, the choice, as here, is between care by one parent and care by another parent against whom there are no significant findings, one might anticipate that the threshold triggering a change of residence would, if anything, be lower than that justifying the permanent*

removal of a child from a family into foster care. Use of phrases such as "last resort" or "draconian" cannot and should not indicate a different or enhanced welfare test. What is required is for the judge to consider all the circumstances in the case that are relevant to the issue of welfare, consider those elements in the s1 (3) welfare check list which apply on the facts of the case and then, taking all those matters into account, determine which of the various options best meets the child's welfare needs."

Long-term supervised contact

12. In ***Re S (A Child) (Child Arrangements Order: Effect of Long-Term Supervised Contact on Welfare) [2015] EWCA Civ 689, [2016] 2 FLR 217***, the Court of Appeal stated that orders can be made for long-term or indefinite supervision of contact if the welfare of the child demands such:

"*[23] There are and will be cases where long-term supervision of contact is in the interests of a child – examples which immediately spring to mind are children placed in long-term foster care by the courts but who continue to have supervised contact with their parents; or the increasingly common situation, where children are placed with family members following care proceedings and the natural parents continue to have contact supervised either by the local authority or family members. Both these examples relate to public law proceedings but have no less application to private law cases, particularly where there are child protection issues but there is no need of local authority involvement because the caring parent, as here, has proved that they are capable of protecting their child. The reality is that, with ever-decreasing resources and the closure of contact centres, long-term supervision will rarely be a realistic option in private law cases such as this; that does not mean however that in an appropriate case such a route should not be deployed as a means of allowing a child to continue to have a relationship with her absent parent*."

CAFCASS Guidance re 'Alienating Behaviours'

13. The CAFCASS guidance regarding 'alienating behaviours', and examples of these, are set out, for instance, at:

a. https://www.cafcass.gov.uk/professionals/our-resources-professionals/child-impact-assessment-framework-ciaf/indicators-child-resistance/refusal-spending-time-parent-such-alienating-behaviours

b. https://www.cafcass.gov.uk/parent-carer-or-family-member/applications-child-arrangements-order/how-your-family-court-adviser-makes-their-assessment-your-childs-welfare-and-best-interests/alienating-behaviours

Oral evidence/assessment of credibility

14. The need to be balanced in assessing oral evidence is discussed by King LJ at paragraphs 29 to 42 of ***Re A (A Child) [2020] EWCA Civ 1230***, concluding at paragraph 40 as follows:

"*I do not seek in any way to undermine the importance of oral evidence in family cases, or the long-held view that judges at first instance have a significant advantage over the judges on appeal in having seen and heard the witnesses give evidence and be subjected to cross-examination (Piglowska v Piglowski [1999] WL 477307, [1999] 2 FLR 763 at 784). As Baker J said in in Gloucestershire CC v RH and others at [42], it is essential that the judge forms a view as to the credibility of each of the witnesses, to which end oral evidence will be of great importance in enabling the court to discover what occurred, and in assessing the reliability of the witness.*

The court must, however, be mindful of the fallibility of memory and the pressures of giving evidence. The relative significance of oral and contemporaneous evidence will vary from case to case. What is important, as was highlighted in Kogan, is that the court assesses all the evidence in a manner suited to the case before it and does not inappropriately elevate one kind of evidence over another.

In the present case, the mother was giving evidence about an incident which had lasted only a few seconds seven years before, in circumstances where her recollection was taking place in the aftermath of unimaginably traumatic events. Those features alone would highlight the need for this critical evidence to be assessed in its proper place, alongside contemporaneous documentary evidence, and any evidence upon which undoubted, or probable, reliance could be placed."

15. See also Peter Jackson J (as he then was) ***in LCC v The Children (2014) EWHC 3(Fam)***:

"25. No judge would consider it proper to reach a conclusion about a witness's credibility based solely on the way that he or she gives evidence, at least in any normal circumstances. The ordinary process of reasoning will draw the judge to consider a number of other matters, such as the consistency of the account with known facts, with previous accounts given by the witness, with other evidence, and with the overall probabilities. However, in a case where the facts are not likely to be primarily found in contemporaneous documents the assessment of credibility can quite properly include the impression made upon the court by the witness, with due allowance being made for the pressures that may arise from the process of giving evidence. Indeed in family cases, where the question is not only 'what happened in the past?' but also 'what may happen in the future?', a witness's demeanour may offer important information to the court about what sort of a person the witness truly is, and consequently whether an account of past events or future intentions is likely to be reliable.

26. I therefore respectfully agree with what Macur LJ said in Re M (Children) at [12], with emphasis on the word 'solely':

"It is obviously a counsel of perfection but seems to me advisable that any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so."

Lies and discrepancies

16. The Court must remember a *Lucas* direction as regards any lie, or alleged lies, told by a witness. Lies do not themselves indicate guilt. Other explanations for why an individual has lied should be considered:

"*90. Eighth, it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and*

distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see R v Lucas [1981] QB 720."

17. Where a witness/party lies about a material issue, the court may consider what conclusions should be drawn from that; ***A Council v LG and others [2014] EWHC 1325*** Keehan J at paragraph 64:

"*I, of course, give myself a modified Lucas direction. In so far as the mother has been found to have lied about a material issue, I must ask myself whether there is any reasonable explanation for her untruthfulness or whether there is no such explanation and the only conclusion the court can draw is that she has lied because she is responsible for the injuries sustained by GS and/or LS or she otherwise knows the truth about how these injuries were sustained and has not revealed the same."*

18. More recently, in ***Re H-C (Children) [2016] EWCA Civ 136***, McFarlane LJ considered the Lucas direction further, in particular that a lie of itself, must never be taken as proof of guilt. At paragraphs 97 to 100 he said:

"97. Within that list of factors, although the judge does not expressly prioritise them, the finding that Mr C lied about the quietness in his flat that night is given the greatest prominence in this section of the judge's analysis. A family court, in common with a criminal court, can rely upon a finding that a witness has lied as evidence in support of a primary positive allegation. The well-known authority is the case of R v Lucas (R) [1981] QB 720 in which the Court of Appeal Criminal Division, after stressing that people sometimes tell lies for reasons other than a belief that the lie is necessary to conceal guilt, held that four conditions must be satisfied before a defendant's lie could be seen as supporting the prosecution case as explained in the judgment of the court given by Lord Lane CJ:

> *"To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be*

corroborated, that is to say by admission or by evidence from an independent witness."

98. The decision in R v Lucas has been the subject of a number of further decisions of the Court of Appeal Criminal Division over the years, however the core conditions set out by Lord Lane remain authoritative. The approach in R v Lucas is not confined, as it was on the facts of Lucas itself, to a statement made out of court and can apply to a "lie" made in the course of the court proceedings and the approach is not limited solely to evidence concerning accomplices.

99. In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of R v Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the "lie" has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.

100. One highly important aspect of the Lucas decision, and indeed the approach to lies generally in the criminal jurisdiction, needs to be borne fully in mind by family judges. It is this: in the criminal jurisdiction the "lie" is never taken, of itself, as direct proof of guilt. As is plain from the passage quoted from Lord Lane's judgment in Lucas, where the relevant conditions are satisfied the lie is "capable of amounting to a corroboration". In recent times the point has been most clearly made in the Court of Appeal Criminal Division in the case of R v Middleton [2001] Crim.L.R. 251.

In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt."

19. That approach has most recently been upheld by the Court of Appeal in ***Re A, B and C (Children) [2021] EWCA Civ 451***, Macur LJ:

"57. To be clear, and as I indicate above, a 'Lucas direction' will not be called for in every family case in which a party or intervenor is challenging the factual case

alleged against them and, in my opinion, should not be included in the judgment as a tick box exercise. If the issue for the tribunal to decide is whether to believe X or Y on the central issue/s, and the evidence is clearly one way then there will be no need to address credibility in general. However, if the tribunal looks to find support for their view, it must caution itself against treating what it finds to be an established propensity to dishonesty as determinative of guilt for the reasons the Recorder gave in [40]. Conversely, an established propensity to honesty will not always equate with the witness's reliability of recall on a particular issue.

58.That a tribunal's ***Lucas*** *self-direction is formulaic, and incomplete is unlikely to determine an appeal, but the danger lies in its potential to distract from the proper application of its principles. In these circumstances,* ***I venture to suggest that it would be good practice when the tribunal is invited to proceed on the basis , or itself determines, that such a direction is called for, to seek Counsel's submissions to identify: (i) the deliberate lie(s) upon which they seek to rely; (ii) the significant issue to which it/they relate(s), and (iii) on what basis it can be determined that the only explanation for the lie(s) is guilt. The principles of the direction will remain the same, but they must be tailored to the facts and circumstances of the witness before the court****.*

59.For the purpose of this appeal, despite the misgivings I express in [49] above, I proceed on the basis that the Recorder was entitled to find the lies or inventions that she did, as set out in [26] above. Further, although the judgment is silent on this point, I assume for the purpose of this appeal that the lies do go to a significant issue, not least because the Recorder describes D as "<u>materially</u> dishonest" (my underlining) in [177] of her judgment.

60.The third element of the Lucas direction is no less important than the first two, and even in the terms of the restricted direction articulated by the Recorder, is patently a crucial component. The Recorder unequivocally indicates in the second sentence of [170] that the reasons she finds the lies to be indicative of guilt are set out in [171] – [174] of her judgment.

61.In my view none of the reasons the Recorder gives can withstand critical scrutiny. There is no logical connection between the conclusions she draws about his demeanour or the inferences she drew from the evidence which fixes the five 'lies' as made through "realisation of guilt and a fear of the truth". See R v Lucas (Ruth) [1981] QB 720 @p 123 H."

20. The Court should consider how much weight to attach to discrepancies in accounts between witnesses or from one witness at different times. Per Mostyn J in ***Lancashire v R [2013] EWHC 3064 (Fam)*** at 8(xi):

"*The assessment of credibility generally involves wider problems than mere "demeanour" which is mostly concerned with whether the witness appears to be telling the truth as he now believes it to be. With every day that passes the memory becomes fainter and the imagination becomes more active. The human capacity for honestly believing something which bears no relation to what actually happened is unlimited."*

21. See also Peter Jackson J (as he then was) in ***LCC v The Children (2014) EWHC 3(Fam)*** about the notion of 'story creep':

"[9] To these matters I would only add that in cases where repeated accounts are given of events surrounding injury and death the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at times of stress or when the importance of accuracy not fully appreciated, or there may be inaccuracy or mistake in the record keeping or recollection of the person hearing and relaying the account. The possible effects of delay and questioning upon memory should also be considered, as should the effect on one person of hearing accounts given by others. As memory fades, a desire to iron out wrinkles may not be unnatural – a process which might inelegantly described as "story creep" – may occur without any inference of bad faith."

Children Act 1989

22. When coming to my decisions regarding who P should live with, if she should spend time with the other parent, how much time and if that should be supervised, I have considered the following sections of the Children Act 1989 when looking at the welfare of P.

1. Welfare of the child.

(1) When a court determines any question with respect to—

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare shall be the court's paramount consideration.

(2) In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

(2A) A court, in the circumstances mentioned in subsection (4)(a) or (7), is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare.

*(2B) In subsection (2A) "involvement" means involvement of some kind, either direct or indirect, but not any particular division of a child's time.**]***

(3)In the circumstances mentioned in subsection (4), a court shall have regard in particular to—

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);

(b) his physical, emotional and educational needs;

(c) the likely effect on him of any change in his circumstances;

(d) his age, sex, background and any characteristics of his which the court considers relevant;

(e) any harm which he has suffered or is at risk of suffering;

(f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;

(g) the range of powers available to the court under this Act in the proceedings in question.

23. I will address the welfare checklist with specific regard to P and in light of the findings I make later on in my judgment.

24. I will also be considering if the duration of the orders should be enforceable beyond P's 16th Birthday and if so until when. The law regarding this is contained in the following section of the Children Act 1989

91 (10)(10A)(11) Children Act 1989

(10) A section 8 order shall, if it would otherwise still be in force, cease to have effect when the child reaches the age of sixteen, unless it is to have effect beyond that age by virtue of section 9(6).

(10A) Subsection (10) does not apply to provision in a child arrangements order which regulates arrangements relating to –

(a) with whom a child is to live, or

(b) when a child is to live with any person.

(11) Where a section 8 order has effect with respect to a child who has reached the age of sixteen, it shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.

25. In light of the above I need to clarify what 'exceptional' means. I note that 'Exceptional circumstances' are not defined in the Children Act 1989. Some of the authorities refer to the need for "protection" for the child as a reason for an exceptionality determination. In ***Re M (A Minor) (Immigration: Residence Order) [1993] 2 FLR 858***, Bracewell J was concerned with a 12-year-old girl who arrived in England with her asylum-seeking father when she was 10. In considering the foster carer's application for a residence order, Bracewell J held:

'I also find that there are exceptional circumstances within the meaning of s 9(6) of the Children Act 1989. F has no relatives in this country. She needs protection into adulthood and I order that the residence order will extend to F's eighteenth birthday'.

26. This is a decision consistent with the length of Special Guardianship orders.

27. Some authorities speak of the need to regulate the position of the child vis-a-vis its parents until 18, such as ***A v A and others [2004] EWHC 142 (Fam)***. The case concerned two children aged 11 and 9 who had been at the centre of bitter and protracted litigation over a period of 6 years. The children's guardian opined that 'a virtual state of war has been going on for over 5 years'. The parents' inability to work together meant that on any disagreement, however minor, their customary course of action was to rush to court. Wall J also therefore made section 91(14) orders to establish some level of calm and longevity for the family. In extending the section 8 orders until 18 in accordance with section 9(6), Wall J stated at

[130]: "Exceptional is, of course, an elastic word, but I do not think I am stretching it too far in making the order sought in this case. Once again, it is part of the same message. This is the regime which is to last until the children attain their respective majorities. It is now up to Mr and Mrs A to exercise their parental responsibility responsibly"'.

28. The question of what constitutes, 'exceptional' for the purpose of s.9(7) was further considered by the Northern Ireland Court of Appeal in ***Fergus v Marcail [2017] NICA 71***. Here the focus was the security of the child. In this matter Madam Justice McBride found,

"that it is in [the boy's] best interest to reside with his mother until he is 18 and that the Residence Order should be extended until he is 18 so that these living arrangements are settled", that "this is necessary to create the security he needs to ensure his physical emotional and educational needs are met", and that "it will establish the best foundation upon which he can build a future relationship with his father."

29. The court again considered the question of what constitutes 'exceptional'. It confirmed:

"[67] The concept of "Exceptional Circumstances" does not find a definition in the legislation itself.

[68] However, it is a concept that has made regular appearances in the legislative fabric. A helpful general observation about the construction of "exceptional" is found in the context of section 2 of the Crimes (Sentences) Act 1997 (exceptional circumstances which justify not imposing a sentence of life imprisonment).

[69] Lord Bingham of Cornhill CJ said in his judgment dealing with this section in R v Kelly Edward) [2000] Q.B. 198 at 208:

"We must construe "exceptional as an ordinary, familiar English adjective and not as a term of art. It describes a circumstance which is out of the ordinary course, or unusual, or special, or uncommon. To be an exceptional circumstance need not be unique, or unprecedented, or very rare; but it cannot be one that is regularly, or routinely, or normally encountered"."

30. This decision was later cited with approval by Lord Woolf CJ in ***R v Offen [2001] 1 WLR 253 at 269***.

31. More recently, in ***Re T (a child) (s 9(6) Children Act 1989 orders: exceptional circumstances: parental alienation) [2024] EWHC 59 (Fam)***, Arbuthnot J was concerned with an appeal of an order which held that the case was exceptional and therefore 'spends time with' orders should continue until the children were 18. In considering the authorities she provided the following helpful summary:

"[140] The section has been considered in a number of cases. In particular, guidance appeared to link the making of an order to run after the child's 16th birthday to where a child has cognitive or learning difficulties and examples are to be found in the authorities where a child was particularly immature and needed that protection. In one case it was suggested it would allow an order where a child had qualities that required additional protection. The word exceptional was to be given its natural meaning."

32. Although, ultimately, the Court decided to give 'great weight' to the 15-year-old's wishes and feelings, for the numerous reasons set out within the detailed judgment including his maturity [§144], the Court concluded that this case was in fact 'exceptional' within the meaning of s.9(6) CA 1989. The Court also gave the following view as to publication of the judgment (relevant to later considerations):

"153. Bearing in mind the secrecy of the findings made by the courts about Ms B and Mr H, I will ask for submissions about why this judgment should not be published in an anonymised form now or more likely when T is aged 18. It is arguable that the proceedings need to be fully exposed to the public gaze.

154. As a general observation, this case is exceptional but not unique and is an example of how little the court, even the High Court, can do when a party, whether the mother or father is determined to cut the other out of their children's lives. I have no doubt this has been the mother's aim for many years and the court has been able to recognise her manipulation but has been powerless to ensure that the children have a balanced upbringing knowing both parents and both sides of the family. It is a source of frustration and regret."

33. I also considered the law regarding section 91(14) orders. Section 91(14) CA 1989 states as follows:

"On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court. For further provision about orders under this subsection, see section 91A (section 91(14) orders: further provision)."

10. Further provision is made within section 91A CA 1989:

"(1) This section makes further provision about orders under section 91(14) (referred to in this section as section 91(14) orders').

(2) The circumstances in which the court may make a section 91(14) order include, among others, where the court is satisfied that the making of an application

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

(a) the child concerned, or

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

(3) In the case of a child or other individual who has reached the age of eighteen, the reference in subsection (2) `harm' is to be read as a reference to ill-treatment or the impairment of physical or mental health.

(4) Where a person who is named in a section 91(14) order applies for leave to make an application of a specified kind, the court must, in determining whether to grant leave, consider whether there has been a material change of circumstances since the order was made.

(5) A section 91(14) order may be made by the court—

(a) on an application made—

(i) by the relevant individual;

(ii) by or on behalf of the child concerned;

(iii) by any other person who is a party to the application being disposed of by the court;

(b) of its own motion.

(6) In this section, `the child concerned' means the child referred to in section 91(14)."

34. In ***Re P (a minor) (residence order: child's welfare) [1999] 3 WLR 1164***, Butler Sloss LJ provided guidance in relation to section 91(14) orders:

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

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

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

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

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

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

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

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

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

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

(11) It would be undesirable in other than the most exceptional cases to make the order ex parte."

35. This guidance was, however, updated by the Court of Appeal in the ***Re A (A Child) (Supervised Contact) (Section 91 Children Act 1989 Orders) [2022] 1 FLR 1019***. The case involved a transfer of residence to the father, in combination with an order

for long-term supervised contact with the mother and a section 91(14) order as against the mother (with a term of 2 years). The Court of Appeal applied a modern interpretation to the Re P guidance, particularly given the now widespread use of emails, other forms of electronic messaging and social media, and the introduction of s.91A CA 1989:

36. *"[33] Before considering the way the mother puts her case in this appeal, it is worth placing the Re P guidelines into a modern context and also considering how the provision in s 67 of the Domestic Abuse Act 2021 may impact upon the guidelines when the time comes for that section to be brought into force.*

37. *[34] Although the guidelines have substantially withstood the test of time and have received the endorsement of this court on a number of occasions in the intervening period, the fact remains that they were set out in April 1999, some 22 years ago. In the intervening period the forensic landscape has changed out of all recognition. Amongst the many advances is the advent of the smart phone and of social media in all its forms. Of particular relevance in this context is the almost universal use of email as a means of instant communication. Another development of relevance is that as a result of the withdrawal of legal aid in the majority of private law cases, a large proportion of parents are unrepresented and therefore do not have, as the judge described it in the present case, the 'steadying influence' of legal advisors.*

38. *[35] One of the consequences of these changes which is seen not uncommonly in private law proceedings is that the other parties, and often the judge him or herself, can be (and often are) bombarded with emails from a parent, whether male or female, who is representing him or herself. Such behaviour may be the result of anxiety but in other cases, as in this case, it is part of a campaign of behaviour by one parent against the other which amounts to a deeply disturbing form of oppressive behaviour on their part.*

39. *[36] Regardless of the motivation, behaviour of this type, as exhibited by the mother in this case by way of an example, is deeply distressing to the parent who is the subject of such abuse and litigation at this level and is highly debilitating to each of the parties and to their children. All too often such communications are ill-*

considered and ill-judged with the consequence that every minor dispute or misunderstanding is met with an application to the judge. More importantly, the distress and anxiety caused to the other parent and to the children at the centre of such a raging dispute cannot be overestimated, nor can the damaging consequences where the focus of the litigation veers away from what, on any objective view, would and should be regarded as the real issues going to the welfare of the children concerned.

[...]

[38] Even though every family judge has the case management powers to which I referred in Agarwala, often even strict directions designed to limit the torrent of emails have no effect. The easy accessibility to the court and the other parties as a result of emails means that Guideline (5) in Re P which says that s 91(14) orders are: 'generally to be seen as a useful weapon of last resort in cases of repeated and unreasonable applications', has even more resonance now than it did in 1999. It seems, however, that

the phrase 'weapon of last resort', when put together with Guideline (4) which says that: 'The power is therefore to be used with great care and sparingly, the exception and not the rule', has led to an understandable, but perhaps misplaced, reluctance for judges to make orders under s 91(14), save for the most egregious cases of which, on the facts as found by the judge, this is one.

[39] Although an order made under s 91(14) limits a party's ability to make an application to the court, the court's jurisdiction to make such an order is not limited to those cases where a party has made excessive applications, although that will frequently be the case. It may be that there is one substantive live application but that a person's conduct overall is such that an order made under s. 91(14) is merited. This situation is anticipated by Guideline (6) of Re P: 'In suitable circumstances (and on clear evidence), a court may impose the leave restriction in cases where the welfare of the child requires it, although there is no past history of making unreasonable applications'. In my judgment the sort of harassment of the father seen in this case, in the form of vindictive complaints to the police and social services, is

an example of circumstances where it would be appropriate to make an order under s 91(14), even if the proceedings were not dogged by numerous applications being made to the judge.

40. *[40] Further, the guidelines do not say that a s 91(14) order should only be made in exceptional circumstances, rather Guideline (4) says such an order should be the 'exception and not the rule'. That is of course right, there is no place in our child focused family justice system for any sort of 'two strikes and you are out' approach, but it seems to me that in the changed landscape described in para [30] above there is considerable scope for the greater use of this protective filter in the interests of children. Those interests are served by the making of an order under s 91(14) in an appropriate case not only to protect an individual child from the effects of endless unproductive applications and/or a campaign of harassment by the absent parent, but tangentially also to benefit all those other children whose cases are delayed as court lists are clogged up by the sort of applications made in this case, applications which should never have come before a judge.*

41. *[41] In my judgment in many cases, but particularly in those cases where the judge forms the view that the type of behaviour indulged in by one of the parents amounts to 'lawfare', that is to say the use of the court proceedings as a weapon of conflict, the court may feel significantly less reluctance than has been the case hitherto, before stepping in to provide by the making of an order under s 91(14), protection for a parent from what is in effect, a form of coercive control on their former partner's part.*

42. *[42] The guidelines in Re P should now be applied with the above matters in mind and in my judgment the prolific use of social media and emails in the modern world may well mean that orders made under s 91(14) need to be used more often in those cases where the litigation in question is causing either directly or indirectly, real harm.*

[…]

"[53] In my judgment the submission made by Ms Scotland that the making of the s 91(14) order in addition to an order for supervised contact is wrong in principle, is

without merit. It goes without saying that in the same way that leave to make an application following the making of a s 91(14) order cannot be conditional, equally s 91(14) cannot be used as some sort of fetter designed to prevent supervised contact progressing to unsupervised contact for the duration of the order.

[54] Every case must turn on its own unique facts but what has to be borne in mind is that whilst a court can make both a supervision order and an order under s 91(14) in any individual case, each has to be considered separately on their merits; that is not however to say that, as here, the same facts and features of a case may not lead a judge to order both supervision of contact and a s 91(14) order.

[55] The orders made by this judge far from acting as a fetter on the establishment of a more natural relationship, facilitate contact in circumstances where absent supervision, A's welfare would have necessitated indirect contact only. Quite separately, the s 91(14) order was essential in order to give A and her father much needed respite from the mother's unremitting campaign of harassment."

Payment for Supervised Contact

43. Griffiths v Griffiths (Guidance on Contact Costs) [2022] EWHC 113 (Fam) concerned an appeal against an order that the mother contribute towards the costs of supervised contact in circumstances where findings had been made against the father. Arbuthnot J stated that there should be a 'very strong presumption against' such a situation and it would be 'wholly exceptional' for such to take place [§§131-132]. The order that the mother make any contribution towards the father's supervision costs was duly discharged.

Reporting

44. Finally, I have been asked by F to consider publishing the previous written judgment and this one. When making this decision I have referred myself to the Practice Guidance, "Transparency in the Family Courts: Publication of Judgments". Where there is a principle of "*open justice*" as it is generally in the public interest for even private law judgments to be published. That I should always consider publishing a judgment in a case where a written judgment already exists and it may be particularly

suitable for publication if it was as a result of a contested fact-find hearing. The decision to publish a judgment, or not, is within my discretion.

Evidence

45. I have read and considered voluminous amounts of evidence, as follows;

bb. Main bundle of evidence;
cc. A further supplemental bundle;
dd. Additional documents and statements produced and provided during the course of the final hearing;

46. I heard oral evidence from;

ee. Social Worker
ff. Ms Trish Barry-Relph ("TBR")
gg. Father
hh. Mother
ii. Dr Willemsen ('Dr W')
jj. Guardian

47. Due to the amount of evidence (as set out above) I cannot cover everything in this judgment, for the sake of brevity I have set out a summary of each witnesses' evidence and highlighted some of the specific things they have said or written which have added to determinations I have made. If I fail to mention something it does not mean that I have not considered it, but the aim of this judgment is to be manageable for all.

("SW")

48. This SW had not provided any reports in this matter, this is not a criticism of her, it was agreed that further reporting from the LA would be unhelpful as there are a number of professionals who have prepared reports in this case. In evidence she presented as balanced and child focused; she had clearly put considerable time and effort into working with, and getting to know, the family and appeared to have a good measure of F and P's relationship.

49. In oral evidence it was confirmed that there continues to be a number of concerns about P, including online safety and sexual exploitation. These concerns have reduced since P has been living with F but there have been recent concerns when a video was found of a boy touching P was discovered. F is appropriately concerned and has been taking advice as to the correct course of action. He has engaged with the work around boundaries and is currently engaging with the teen parenting course, although there have been some concerning incidents, they do not have concerns about F's care of P and he is providing good enough care. It is important to note that F and P do get along and it is not a case that there is always arguments and fighting, often the conflict between them occurs after contact and the LA have noticed this correlates with an increase in complaints from M as well.

50. In relation to the physical altercations between P and F, the SW made no excuses for F stating clearly that he had handled them wrong, that sometimes he can't control himself and loses his temper, she set out a more balanced picture including P purposely "*provoking*" F by slapping him first or shouting "*go on then hit me*". P had admitted to the SW that she has "*behaved badly"* during the incidents and that she has a part to play in them. All of the concerning incidents have been investigated, the LA have completed reports and the police have been informed and safety plans have been drawn up which are assisting with the aim of de-escalating situations that arise. There are challenges with P and F's relationship, but P has mentioned therapy has helped and there are improvements, there were things P did not like in the beginning that she rated as a 2 and now says it is a 6.

51. P has engaged well with her support worker, and she is positive about the therapeutic work with TBR and F. P has told the SW that she is able to express herself within the sessions and the LA think continuing the therapeutic work would be positive for P. It would be even more beneficial if M would also be able to join the therapy and the SW is concerned that M has not written the recommended letter of apology. This is a theme with M as she has struggled to accept all of the findings or work proactively with F and the professionals.

52. SW is concerned that P has stated if she spent more time with M she could "*fix"* her and that M should engage with therapy so this can all be over. P hasn't said to the SW that she wants to live with M, she has said she would like a 50/50 arrangement. While she has said she misses M she also says that she misses the cat and that she wishes her time with M wasn't supervised. When the order was first made P didn't accept the decision and was always asking to go home, that has stopped and now she discusses her friends and future. There has been a dramatic reduction in P's absconding.

53. P has never mentioned about wanting to board at school and this has never been discussed between them.

Ms Trish Barry-Relph ("TBR")

54. TBR has filed a further updating report dated 15th May 2024 and then replies to additional questions dated 1st July 2024. The reports are very detailed, covering discussions which took place in each session and then her conclusions and recommendations in light of those sessions and updating evidence. TBR last saw P on 19th May and there were no further sessions between then and the final hearing because the parents couldn't agree as to if the additional sessions should go ahead. At the time of writing the updating report TBR recommended a further 12 sessions. While it was hoped the majority of these additional sessions could take place over the summer period I am aware this hasn't occurred due to TBR having personal difficulties. TBR came across as balanced and measured, she tried to be fair to M and this can be shown by her not making a recommendation in her report about M's therapy as M may have been moving forward and she didn't have M's therapist's report to comment upon.

55. While giving her oral evidence TBR did not have the benefit of hearing Dr W's evidence and therefore was unable to reflect on his up to date position.

56. Regarding P, TBR felt that she had engaged very well in the face to face sessions, including the attachment narrative therapy and the father daughter sessions. Despite this it was TBR's view that P continues to have a negative narrative surrounding F and "*it is a source of concern that P has been left in the therapy chair and although*

F has engaged in the process, P's mother has remained aloof from the intervention", much was made of this quote throughout the course of the hearing. The implication of the quote is that P may be "*receiving the message that she is the problem rather than the parents*" and this appears to be supported by P's discussions where she considers she can fix M. During the sessions TBR felt there was an "*upward trajectory*" where P was exhibiting moments of spontaneous affection with F; however, as P became aware of the final hearing drawing closer she "*became more unstable in terms of turning her back on her previous narrative*". Moving forwards "*it is more harmful for P to keep having to manage the conflict loyalty…[as] there is a concern that the bond keeps getting broken and retained because M isn't supporting the narrative".*

57. While P is chronologically 15 TBR gave evidence that she is emotionally young and under developed because of this P cannot assess risk, is seeking attention, and exposes herself to sexual exploitation. While P says how alone she feels and that she needs to make her own decisions, TBR's evidence was this is as a result of her nurture and development not being at the forefront of her parents' minds. While she is undertaking the trauma attachment therapy P requires "*a safe space so that she can feel emotionally contained and raise the issues she wants*".

58. The long term risks to P are that while she may manage well academically she may be unable to engage in meaningful relationships which extend beyond her parents to friends, colleagues or employers. This means she would not be able to resolve conflict or ambivalence.

59. F has engaged well with TBR, attended all the sessions, has reflected on the findings and has accepted the (previous) judgment. The incidents between F and P were clearly inappropriate and a significant step backwards, TBR felt it was positive that F disclosed the incidents, accepted them and recognised that he shouldn't have acted that way. F has expressed remorse and regret to P. Part of P's behaviours will be as a result of her significant struggles with boundaries and therefore has railed against them. It also needs to be recognised that P said "*her dad made her feel better, less scared and more loved*". TBR remains of the view that F would make the right

decisions for P and would promote her relationship with M. F has worked hard not to raise to provocation or respond to M in a reactive way, in TBR's understanding there is more intractable hostility from M to F, than the other way around.

60. TBR was concerned about M's continued lack of acceptance and refusal to engage in the therapeutic work with P. There were some reported difficulties with arranging a parent consultation with M but more concerningly was M's clearly hostile and combative approach within that session. It was clear when reading about the session (the content of which was not disputed by M in cross examination) that M had attended with her own agenda and used the time to ensure that her criticisms of F and professionals were heard, M appeared to lose sight of P within that session beyond her own narrative of P. In oral evidence TBR was clear that M's approach "*leaves P feeling responsible for the conflict between her parents*". Further it is very concerning when M says that when P comes back to her she will have to undo all that F has done, as it would be harmful to P.

61. It was TBR's evidence that the work undertaken with P and F was only 3 months' worth, there was delay in it commencing and then there was no agreement as to it's continuation while awaiting the final hearing. The 3 month reunification plan didn't work because M has not been involved with the work, this did not have to be engagement with TBR and it was accepted that she may feel more comfortable with another therapist but there is no evidence that she has undertaken the work required or come to terms with the judgment, . The aim of P having meaningful relationships with both parents cannot be accomplished without the meaningful engagement from M. At the moment P has "*a loyalty conflict, cognitive dissonance and still protects M*".

62. TBR's view was that the current contact between P and M (as set out in the contact notes) was concerning as the matters being discussed were drawing P into adult conversations and therefore putting P into a "*parentified situation above a position where she is considered reliable*". TBR was of the opinion that contact should have been enjoyable and an opportunity for M and P to engage in activities together to enable them to relax with each other.

63. The recommendations made by TBR moving forwards are

kk. Continued individual therapy for F and P;

ll. Continuing the joint therapy with F and P together;

mm. M's therapy was not sufficient for the flowing reasons

i. It has been focused on M's anxiety and depression

ii. There is no mention in the report that the documents the Court ordered them to consider have been considered

iii. It is CBT and person centred, this means it is based on self-reporting and is led by M

iv. The recommended therapy was psychoanalytic psychotherapy which aims to help M to accept the findings of the court – TBR maintained that this was the correct form of therapy for M

nn. M to engage with psychoanalytic psychotherapy and until she has accepted the findings then the contact should be supervised;

oo. If M used her own therapist there would need to be consultation between the two therapists to ensure engagement, acceptance and a unified approach;

pp. 50/50 is inappropriate due to M's continued denial of the fact finding judgment, the blame she places on F, and her email saying she would undo everything. Returning P to M's care, even 50% of the time would be "*fertile ground for the hostility and conflict leaving and will leave P right in the middle of where she previously was*";

qq. P should live with F;

rr. Contact – TBR's preferred option would be to allow some contact between M and P at the current level, but given the current notes it would need to be closely supervised to ensure M is not talking about the adult issues and this would have to be a condition of contact. TBR agreed with Dr W's report that if M can't stop discussing adult issues contact would need to reduce or cease for "*sometime*";

ss. There are tension points around decisions being made for P, especially regarding school and therefore F should be able to make decisions around

these issues (such as school trips and health issues) without M's consent, albeit he should keep M informed;

tt. M should still write the letter of apology to P, recognising her lived experiences and feelings;

uu. F's boundaries are appropriate at the current time but should expand and change along with P's understanding of her own vulnerabilities and lack of internal controls;

vv. *"It is for the court to decide if she needs protection of if there is a way for M to have a genuine and meaningful relationship with P"*

Dr Willemsen ("Dr W")

64. Dr W has filed an updating report dated 14th June 2024 and responses to written questions dated 1st July 2024. Throughout all his reports and his oral evidence, he was clear and consistent about the harm that P has suffered and that this will continue to occur if M doesn't undertake the work that is required. Dr W's evidence was balanced and took into consideration nuances and distinctions, for example he acknowledges that M does accept some of the concerns of professionals and F but does not accept them in full. He was also impressed with how she was managing her emotions and that she was more contained and able to say how upsetting she found the situation.

65. P is engaging more with F and is settling into his care, however her life experience thus far have resulted in her being a vulnerable adolescent (especially in relation to boys and men) and is looking for acknowledgement and recognition. Part of P feeling unheard comes from her "*emotional deprivation in the care of M*" which P is now having to deal with in the care of F and in therapy. Dr W also said that "*M's approach leaves P with the burden of the difficulties…she (P) will feel she is to blame…I am most worried about the isolation and it will cause her (P) to align with M*". He was also concerned that P believed that once she was 16 the law would change and she could do what she wanted as this could cause her to not engage properly with the therapeutic work. It is important that she has awareness of how other people may take advantage of her.

66. It is Dr W's professional view that P should not have separate representation. His reasoning was in accordance with his previous evidence on this point. P is currently at the centre of her parents' dispute, she has been drawn into this conflict by M (including conversations during contact), she does not have the emotional intelligence to oversee the issues and therefore is not capable of forming her own view and opinion separately to that of the adults around her (specifically M). Further, if P were to engage with the case and have to consider the evidence this is likely to be distressing to her because she will be drawn further into the parental conflict (as set out in a previous judgment the impact on P is not part of the 2 stage test I need to apply however, it is a valuable part of Dr W's evidence regarding the impact on P of drawing her further into the conflict within this case). Finally, Dr W felt that P being separately represented could have the effect of "*M using P's instruction of a solicitor to advance the mother's case".*

67. Dr W also stated "*P might want to instruct a solicitor because she doesn't feel heard and listened to…P not feeling listened to, in its core, does not lie with the court or professionals, but with her parents and in particular M*". I have raised this quote as I believe it is borne out by the contact notes where P continually tries to communicate with M that she doesn't wish to discuss certain matters but M continues to raise them. Equally, P has never raised with a professional face-to-face that she would like to have separate representation, yet M continues to doggedly pursue this for her own reasons, despite all professionals being clear as to the distress and harm this is likely to cause P.

68. Dr W assessed that F has accepted the judgment and findings and his own verbally abusive behaviour towards M. F has expressed to him that he is concerned P is unable to express how she feels about him either verbally or physically. He is concerned about F hitting P and set out that it will make P feel anxious and unsafe; however the expression of remorse is a positive indicator. F is at the receiving end of P's difficulties and as a result there are times when he and P get on well and others when P "*very seriously challenges him*" but when P walked out of the session with F and Dr W it wasn't through anger it was a "*drama adolescent walk out*" and it is important to distinguish between the two.

69. It was to M's credit that she really engaged in her session with Dr W and was helpfully honest about not accepting the majority of the findings. M feels her role as a mother has been taken from her and this is a very difficult loss. Dr W's view is that M's struggles with being vulnerable and this impacts on her ability to accept P's vulnerabilities. Dr W is clear that P needs protecting from M and this is essential when considering contact. However she continues to be negative about F, fails to accept all of the courts findings and continues to minimise concerns and pull P into the adult disputes. If P makes an allegation about F to M she should be seeking to deal with this directly with F in an adult and conciliatory manner instead of discussing them with P. While Dr W doesn't see P's attachment to M as bad he does "*think the way M relates to P is not healthy*". As a result of M's approach it is causing conflict within P.

70. When asked by the G about the position statement prepared on P's behalf, his response was that it reads "*like it was written for M*".

71. Dr W was very concerned about M's suggestions that P should go to boarding school, it is "*an attack on the work that has been done*" and shows that M hasn't considered the concerns around the child, instead should be seen as a plea from M. Dr W summed up the approach that should be taken to boarding school as "*P's welfare is best met by development of the attachment of the relationship with the F. I know boarding is cultural but I am not sure I would trust P with that level of freedom, peer relationships and independence*".

72. Dr W's recommendations for the future are;

ww. Living arrangements need to continue as they currently are (P to live with F);

xx. If "*at all possible*" contact between P and M should remain in place. However M needs to enjoy positive time with P, without discussing F or any of the other matters which M should be addressing in psychotherapy;

yy. If M cannot cease these conversations with P then contact may need to be reduced or temporarily stopped. This is especially important while P is engaging in her own therapy;

zz. If it was decided that P should live with F then he should be able to make decisions without M's agreement, otherwise it descends into competition;

aaa. M would benefit from individual psychoanalytic psychotherapy;

bbb. F and P to continue the therapeutic work with TBR;

ccc. It is important that there are no further proceedings or applications as this will only heighten the conflict and lead to less stability for P;

ddd. Judgment being published – he said *"I want to support the judgment published because I come across defeatism by judges about not being able to change things for 13, 14, 15 year olds – it needs discussion and thought about it – particularly where the voice of the child seems to overtake the protection of them*" he didn't accept there would be any harm to P by the judgment being published and highlighted that it happens all the time;

eee. Order being enforceable beyond 16 – "*I am not of the view that she is able to oversee her decisions. We need to say to her that we listen to what you want but the adults need to make the decision as means of protecting the children*" This quote is to be read in conjunction with his concerns about the approach P is taking to turning 16 as set out above;

fff. He felt that it would be beneficial for the order to be worded in such a way that meant M completing certain tasks or milestones meant that contact would be reviewed and either increased or become unsupervised. Instead of the alternative where F would be the decision maker, as the second approach is likely to cause F to appear to be the villain and place blame on him for maters not progressing.

NYAS Caseworker ("G")

73. I was provided with a detailed and thorough Caseworker Report dated 4th July 2024, it sets out the details of the meetings between G and P. As this is a matter where the wishes and feelings of P have been the subject of many applications, being able to read P's words and appreciate her approach on different dates has been beneficial to my understanding of her. M criticised G for the report not containing an analysis of the Welfare Checklist, I felt this was unfairly critical as while the headings are not contained within the report, her "Conclusions and Recommendations" section is 38

paragraphs long. Within those paragraphs all of the elements of the welfare checklist are covered (for example wishes and feelings are at paragraph 4.5 and 4.6, education at paragraph 4.7, and her emotional needs are throughout the 38 paragraphs). This is a complex case and the G has, in my opinion, dealt with all elements of the Welfare Checklist and how they interrelate in a non-linear manner. It is clear to me that she wanted what was best for P.

74. G felt that P was settled in F's care and has a good relationship with him although close to hearings she becomes more argumentative. There seems to be a correlation between P flaring up and hearings/contact/P not being aware of decisions. She is doing well in school and they are confident that she will get GCSEs at the end of the next school year. G seemed to have a really good understanding of P, and was even able to describe her "*tell*" when P knew she was being dramatic. The description of P was of a head strong, determined young person who could be clear about what she wanted, such as sessions booked over certain lessons which P preferred to miss but also of an unsure, vulnerable younger person, who tried to avoid answering certain questions and needed to check who knew what and what was being said to her parents.

75. It was G's opinion that P cannot show closeness to F and this is a result of always feeling stuck in the middle of her parents. As a result P cannot talk positively about what happens at F's. It is as if P "*swings on a pendulum*" as she talks about a future as if she is living with F but then will say she wants to live with M. It seems to G that P cannot say positives about F as it would seem disloyal to M and she doesn't have M's approval to do that as a result this is affecting P's ability to attach to F.

76. The incidents between F and P are concerning but he has been open and honest about them, accepting that he needs advice and guidance. She described that the first time an incident like this happens it is a shock and people often react badly, however in the aftermath there is time to think things through and work out how to respond differently. The G feels F has done this.

77. It was very concerning that P said to G "*if I lived with her (M) I could fix her"* as it puts P in the parent role and G highlighted that as a parentified child P "*can be*

anxious about the decisions being made about her, it affects the attachment and the relationship she has with adults". P is also bright and capable which means she is aware of how to work the system, but it is notable that she talks about her parents controlling her and not the harm that has been caused.

78. G echoed the concerns of Dr W, that P's position statement was like it was written for M, although she went further to say that M struggles to separate her wishes and feelings from those of P too. This in part comes from the inappropriate conversations taking place during contact where the conversations have "*the sense of M getting P to do or say what she (M) wants her to*", this is further seen by P wanting to stop the conversations as she is aware that M is evidence gathering. The contact supervision is not doing what it should and this is impacting on P, the G was clear that the quality of the supervision must be significantly increased, however F shouldn't be in charge of this as it puts him into a position of conflict with M and potentially P.

79. Regarding boarding school G felt it would undo all the work that has been done and would stop her building a relationship with F. Her evidence was the priority needs to be embedded time with F.

80. While the G accepted the original reunification plan was for 3 months, she felt the reason it hasn't moved forward in the 9 months since the previous hearing was because M hadn't done the work that was required. G did see positives about M and was clear that M loves P and is trying to do what she thinks is in P's best interests, she has positive high expectations of P and there is a closeness between them. Sadly, the relationship between M and P has suffered as a result of the poor quality of contact, if M engaged with P the quality of contact and the relationship would be much stronger. The G accepts that P is saying she wants to live with M but feels that P is very aware that this is what M wants and predominantly she is "*a young girl in conflict*".

81. The G's recommendations moving forwards;

ggg. P should live with F;

hhh. Contact, she agreed with Dr W that contact should be reduced and the onus should be on M to do the work and self-reflection for contact to be increased. It is important that contact is about P and it should be clear that there should be no evidence gathering. A further bonus of this is that contact could be increased quickly;

iii. If the court felt less frequent contact would be a positive then G's suggestion was 5 hours per session would be appropriate;

jjj. Maternal family should be able to join contact as long as a supervisor was present and felt able to enforce the rules with all adults present;

kkk. All orders should run until P is 18 years old;

lll. Therapy for P and F should continue with TBR, however at some point she will want her own therapist.

Parents

82. I am going to give an overview of each parent's evidence and then will deal with each allegation individually, I bear in mind this is a welfare hearing and therefore I have limited the allegations to those which may influence any decision I would make about welfare. In terms of the law I am going to take the same approach to the allegations of breaches as I did in the previous two hearings where evidence was considered, that is a civil burden and standard of proof. This is because F is not seeking an enforcement order regarding these allegations and instead is seeking for them to be considered as part of the factual matrix of this case so that the court may be fully informed by all elements of the parents' interactions.

Father Summary

83. F has submitted a further statement with exhibits, and a schedule of allegations. His legal team have also provided me with a chronology (which is not agreed by M). F's position is that he is being led by the professionals and therefore seeks for me to follow their unanimous recommendation for P to live with him. He invites the Court to make a final order in the following terms:

mmm. P to continue to live with F under the existing 'lives with' order;

nnn. In terms of M's contact, F will be guided by the professionals. At present, there are no definite/specific proposals from TBR, Dr Willemsen or the NYAS caseworker, and so F wishes to await the oral evidence before finalising his position;

ooo. A s.91(14) order to be made for just under the next three years (i.e. until P's 18th birthday), with any applications concerning P and/or these parties being reserved to DJ Saunders;

ppp. The current PSO, SIO and NMO to continue for just under the next three years (i.e. until P's 18th birthday);

qqq. As set out within F's witness statements, F seeks additional orders which enable him to make the majority of decisions in respect of P, and thereby place some limitations on M's PR, so as to reduce the risk of M continuing to try to undermine F's parenting and P's placement with him. F wishes to explore this with TBR, Dr Willemsen and the NYAS caseworker in oral evidence and thereafter will formulate his precise proposals;

rrr. The Court to consider publication of the judgments from this case, for the reasons set out within F's witness statements;

sss. M to reimburse F for the costs of 50% of P's individual therapy with TBR and all of the costs associated with TBR's reports (including reading the papers and consulting with other professionals). This amounts to £3,817. M to also pay for 50% of all of P's future therapy costs;

ttt. M to pay all future costs of supervised contact with P (if the Court orders such contact).

84. It is clear that F loves P and is committed to her and her welfare, it is of no surprise that these proceedings and all that surround them have been very stressful and costly for him. I have had the benefit of hearing F give evidence three times over almost a 2 year period. What has struck me is how far he has come since the first contested hearing in this matter. At that stage he struggled to acknowledge where he was at fault and while open to some suggestions was at a loss as to how to implement them.

During this hearing he was reflective, thoughtful and has clearly gained a significant amount of insight into himself and P. I can only conclude that he has undertaken this arduous journey of self-reflection due to his commitment to P and her wellbeing.

85. Regarding his relationship with P he described it as "*generally very well and peaceful…90% of the time*" I found this to be an honest answer which is supported by the observations of others, no person who lives with a teenager would describe a 100% positive relationship. F described P as doing well at school and taking part in after school activities, with P asking for assistance with homework on occasions.

86. F acknowledged that he had slapped P on one occasion and his evidence was as per his witness statement for all three of the incidents which occurred between them. He spoke to the SW and has been given advice and support since then, he accepted that this was not the correct way to deal with things. He felt there was a correlation between the incidents and times where P wasn't having therapy (one before it started and the other two after it stopped). F felt this was tied into P's anger, which is something she accepts can be a problem for her and she has raised that she feels she needs anger management therapy.

87. It is clear that F has worked closely with all of the professionals in this matter, he has taken onboard advice and could give examples of this such as calling his wife to intervene in confrontations with P and the parenting course he has commenced.

88. I believed F when he stated the aim had been for there to be shared care and that he would have supported this if it was safe for P and the professionals supported it, however due to M not having done the work required he felt the current situation had to continue. Regarding contact he said "*M isn't having fun with P, they are just talking about what is happening…M shouldn't be talking about these things in contact, I have no intention of suspending M's contact and I will also do therapy… however I see a link between contact and P's behaviour, she comes back agitated*".

89. In questions put to him by M, F was balanced and measured. He acknowledged that P loves M and she "*wants to have a close and loving relationship with her*". However he felt one of the reasons P wants to spend more time with M was that P didn't have any boundaries there, she was going anywhere she liked and with no

curfew, P has said that she wants to go to M's because of the freedom that she has to do certain things there. This leads F to believe that while P does want to live with M it is misguided because she just wants to have her own way. He agrees with the G that there is a disconnect between what P expresses she wants (to live with M) and what she says about M's "*I like to sit in the loft on my own*" and the plans she makes within F's home. P is still displaying unsafe behaviours and a lack of awareness of these, which is one of the reasons he continues to support the need for P to have therapy.

90. F is concerned that P doesn't see them as parents, he accepts that she was caught in the high conflict between them but he has been working on that in therapy.

91. I was somewhat perplexed by a line of questioning in cross examination which centred around F not proactively supporting M's family. This seemed to me to be wholly contradictory to M's evidence given on the previous occasion where she said she felt F was cutting her off from her friends and family and trying to get them to side with him. I had made a finding (as set out in her schedule) that he was misguided when trying to communicate with her side of the family by setting up a WhatsApp group. This line of questions was also in stark contrast to the evidence M gave in the first consented hearing where F was upset that she didn't make allowances for P to spend time with the paternal family and M's response was that it wasn't "*her responsibility to promote F's family*" with her clear message being that if F wanted P to spend time with his family it was up to him to facilitate it. I had some sympathy with F as he tried to answer questions on why he wasn't taking P to her Maternal Grandparents' home etc given the history in these proceedings. It seemed M was putting F in a position where he would have been criticised regardless of the action he had taken since the last hearing.

92. F reiterated that he had wanted a 50/50 arrangement and that was the basis of his original applications but he gave a what appeared to be a heartfelt plea when he said "*M wouldn't allow it (50/50), we are not here because of me, some of the things are my fault, we have the findings but can we get this matter back on track and just do the therapy. Please.*"

93. Regarding the occasion when F slapped P he stated again that he had apologised, addressed it in therapy and learned from it. While I will deal with this later in the findings, I will highlight here the hypocrisy that came with M's line of questioning. In the first fact finding I made a finding that M had smacked P. This was something P had complained about to friends and professionals, and M had vehemently denied it, M had, in essence, called P a liar. It was only when giving evidence during the hearing that M accepted, she had smacked P as a result of arguments about studying and P's mobile. M's approach to her situation was to protect herself and not only deny P's experience but also to portray P as being untruthful to everyone, including the social worker at the time. I am still unaware if M has even acknowledged to P what she did or said sorry to her. M's is seeking to vilify F for reactions and responses which were very similar to her own, despite him having done everything to repair the situation with P and her having compounded the situation by causing further harm to P. After that hearing I did not use the finding I made against M about hitting P to remove her from M's care, instead I ordered 50/50 division as all matters had to be taken into consideration.

94. F's evidence about the other allegations was also consistent with his written evidence. He denied calling P a slag and bitch, stating that these were part of a calm conversation had between them about peers and how they can perceive things. His evidence about the incident in the car and the second incident at home was detailed and showed a level of learning and implementation of the safety plan which the SW had assisted him with. They are clearly concerning incidents, as accepted by F and all of the professionals, however they have to be seen as part of all the circumstances surrounding not only the incidents themselves but also everything this family was experiencing at that time. In response to questions on behalf of G he was able to set out how he manages incidents that arise now.

95. When accused of being hostile to M due to his statement and the further allegations raised F stated that "*I wanted to report what was happening at the time*". He accepted that the email regarding having unlimited funds for legal fees was badly worded but stated that he didn't mean it to be threatening, but he highlighted that it is the only email in an 8 month period that M can point to as being inappropriate. I note that the

same cannot be said for M as there are a number of long and ranting emails which she has sent.

96. When asked about boarding school F was clear that he didn't see the sense in the suggestion and he felt like it was thrown in at the last minute. There will only be 4 other children boarding and none of them are her close friends. In any event P has been happy living with F and he felt it has been a positive experience for her. He also doesn't believe that the position statement prepared on behalf of P are her sentiments and feels that she changes what she says every time.

97. F accepted that if P didn't want to work with TBR then he would find a different therapist.

98. F feels that ne needs overarching parental responsibility because M keeps breaching the orders and undermining him, he doesn't agree with M that he is trying to control her but instead is trying to give P one clear message. He would also want to facilitate discussion wherever possible but that he is the only one who should make decisions because "*M won't make the right decision. Sorry M*". He also believes that the orders should be extended until P is 18 as it will give her "*some peace of mind*" and offer her stability for the remainder of her childhood as she has been subject to court proceedings for over 5 years (this is in total not just these applications).

99. F also acknowledged that the boundaries are there, he hasn't been the one to set all of them as a number have been put in place by the Child Protection Plan, however he is the one that is expected to enforce them and P isn't necessarily aware of that and therefore blames him. However, he is trying to teach her that the boundaries are normal and he is supportive of them being there to keep her safe. F believes that P will be on a CPP for at least another 6 months, however he wants the scrutiny around her to be relaxed at the right time so that she can show that she is capable of being responsible for her own safety. While she is starting to understand she is still immature around certain issues.

100. F accepted that he didn't really discuss M in the home and therefore there weren't many affirming messages about her, he does tell her to have a good time when with

M. F accepted that is an area that should be worked on in his therapy and was something that probably does need to change.

Mother Summary

101. M has filed a further statement and a schedule of allegations. M's statement is dated 18th June 2024 but the final order she was seeking changed significantly between then and the first morning of this hearing, for the beginning of this hearing. In M's statement she seeks for P's voice to be listened to, it is the central thrust of her arguments and it is M's belief that what P wants is to live with M and choose when she spends time with F. Ostensibly P's time with F would be alternate weekends and half the holidays but it is important to be clear that the actual plan requested is for P to have control over when she sees F. M's position statement was written at a time when all the evidence had not been received, I make no criticism of her wishing to see those documents prior to committing to a final position. However, the stance she took on Monday morning was entirely unexpected as her first position was that P should become a weekly boarder at her current school and spend alternate weekends with each parent.

102. M's sudden introduction of this option gave me considerable consternation. This option had not been discussed with P and I wrestled with if her wishes and feelings on this issue should be sought because, on one hand it would be drawing her into this hearing and the parents disputes, but on the other she is of an age where she should have input into such a significant life plan for her. Fortunately, and somewhat by chance, part of the conversation between P and Ms Singleton had covered boarding as P wishes to board for a week towards the end of last term due to it being a fun week and some of her friends would be boarding, however she didn't think she would be allowed to as F was supporting it and therefore P didn't believe M would. There were two other concerns I had about M raising the possibility of boarding school, these were:

    uuu. M has focused on P's wishes and feelings throughout the almost 2.5 years of these proceedings. Even where those wishes and feelings have been found to be harmful to P, M has maintained their absolute importance, almost to the

exclusion of all else. However, this is a plan which P has never stated she wants and which had never been discussed with her, according to M. Throughout the hearing M continued to pursue these two diametrically opposed arguments without seeming to appreciate the conflict they had with the other; and

vvv. There was a sense of M saying that if P wasn't going to live with her, then P wouldn't live with either parent. While this was never expressed by M it as something that seemed to be the only logical reason for M pursuing this argument where every professional that gave evidence opposed the plan as they felt it would cause harm to P.

103. In evidence M set out that the reasons she was suggesting boarding for P was that both parents will always have hostilities between them and as such M wanted P to be in her "*safe space at school, where she has her friends and can focus on her GCSEs*". I was concerned that this seems to place a higher importance on P's friends that on her relationships with her parents. Although P would get to see both sides of her family on the weekends as M would expect P to spend alternate weekends with each parent.

104. It is clear that M loves P and she is committed to her. I can see and hear that M feels disregarded and sidelined as a result of P no longer living with her. This must be exceptionally difficult for M especially in a situation where she has such little control, and will be increasing her sense of vulnerability. I also wish to echo Dr W's observations of M, that she has come a considerable way during the course of these proceedings. When giving evidence M was calmer and more thoughtful, she had clearly put a lot of thought into what she thought was the best solution for P and was willing to accept and acknowledge points which she felt could be attributed to both herself and F.

105. Throughout M's statement and evidence she paints F as the villain, with her and P as the victims. It is almost entirely an attack on F and attempts to persuade me that he is responsible for all of P's difficulties. This is a narrative that is not borne out by any of the evidence that I have considered throughout these proceedings. M continues to

struggle to see where she has acted inappropriately unless it is a situation where F can also be blamed, such as the conflict between the parents. Also while M pays lip service to P's vulnerabilities she doesn't identify what they are or how M would manage them any differently to F, for example a number of the boundaries M complains about have been imposed by the LA as a result of the CPP, M doesn't acknowledge this and instead calls F controlling and accuses him of "*being age inappropriate with P*". My concern about M's understanding and acceptance of the need for boundaries is raised further when she suggests at the end of her statement that P should live with both parents and "*when with her Father she does have to adhere to his rules and vice versa when with me. If she is sharing her time equally between us then this gives her a break from the other parent's parenting style on a regular basis. P is getting E-Safety and other guidance from the Local Authority unit dealing with Vulnerable and Exploited Children to ensure she can protect herself which I welcome Father sometimes, I am not proposing that as the outcome here. and support and I have been requesting this for some time.*" As it highlights M's inability to grasp or accept that she needs to put boundaries in place for P and that the training provided by the LA is not enough without those boundaries also being there to support it. Furthermore, she doesn't see that this would expose P to further parental conflict and cause her additional emotional harm.

106. M says F's "*parenting has resulted in the Father hitting P, being abusive to P to control her and has ultimately resulted in P hitting back at her Father*." Which seems to completely miss the point that P accepts she hit F first, also M states "*if I behaved in such a fashion then my time would be even further minimized*", however (as set out above) M accepted, and I made findings, that M has also physically hit P and she compounded that harm by her actions thereafter, but I did not reduce M's time with P and continued to order 50/50 shared care arrangement. This shows that M struggles to see where a fair approach has been taken, instead choosing to interpret the professionals and the court process as being against her.

107. M states that she wants to co-parent with F and I do believe that this is something she genuinely wants. She has emailed F on one occasion apologising and she has tried to raise issues with him such as GP and dentist appointments. However, she has also

sent a number of emails which are long, rambling and give serious cause for concern as to M's perception of the situation and her future intentions. I can appreciate that F and the professionals may not know which version of M they will be interacting with and this will place further strain on those relationships and ultimately P. There has to be some acknowledgement from those working with the family that this situation is placing significant strain on M as she feels as if she has lost everything, they need to ensure they communicate with her effectively and in a timely manner. However the intervention that is likely to have the greatest impact on M and this situation is her engaging in the recommended therapy, with a therapist that has had sight of all the papers in this matter and can assist M in understanding and accepting the judgments and the reasons for them.

108. M has been attending CBT therapy with Jacqueline Hewitt, this has been provided through her work. It is positive that she has engaged with this and is finding it beneficial. I accept that M sent to Ms Hewitt the documents which were ordered to be provided to the therapist but due to this being the wrong type of therapy, Ms Hewitt hasn't read those documents. Sadly, this is not the correct type of therapy and the professional recommendations remain that psychoanalytic psychotherapy is the correct method to assist M in moving forwards in a manner that will assist P. An example of this is that M says she didn't write a letter of apology to P, even about the few findings she did accept as she "*didn't have any help*". I completely accept this as being true, as M didn't have the correct help from a therapist who would be able to assist her in doing this for P.

109. M view that is that it is imperative for P's wishes and feeling to be heard by the Court however I agree with Dr W's observation "*that 'listening to' for P often means 'having to agree with her' much less the deliberation of different points of view, as needed in court"*. I then take this one step further in that it is also M's view that hearing P's wishes and feelings means I would automatically agree with them and they would form the basis of any orders. By having this expectation M is fundamentally misunderstanding the legal approach; I can and do listen to and acknowledge what P has said she wants but listening is vastly different to agreeing with P. P's voice is only one which I must hear and give consideration to, in short it

is one piece of the jigsaw puzzle that is the evidence in this case and it is not the determinative piece.

110. Concerning that M criticises F for reading the supervised contact and expert reports but does not see "*P's feelings are about the concerns she raises about his care of her*" and yet M also reads those reports and my judgments and cannot see the many and significant concerns that all professionals have about her approach and the serious harm this is causing P. M gave evidence that she had moved on but even her example about this was making reference to the history in this case and F making an application because he said P was being sexually exploited in M's care.

111. M criticised all of the professionals in this matter (Dr W, TBR, G and the LA) either directly in her evidence or through the questions that were asked of them. Some of these questions had already been asked in the previous fact find/final hearing and I had dealt with the issues. However, because M did not agree with their opinion she had to denigrate them and their agendas or qualifications. This is an approach which has remained consistent throughout the proceedings.

112. Regarding contact M made excuses for all of her inappropriate conversations within contact, some examples were giving P the contact details for ChildLine, taking her own notes during contact, and telling P to make a subject access request. M seemed unable to see or accept that she had behaved poorly in contact and this behaviour was placing P in the middle of the conflict. However, all of M's reasons for her behaviour were to do with M, "*I wanted P to make as subject access request – because we didn't have the information and I wanted to know everything about sexual exploitation*". This is exactly the behaviour I made a finding about in the previous set of proceedings and it is a concerning that M has not been able to address this and move forwards.

113. When giving evidence about F not supporting M's family, M accepted that they hadn't contacted F and said that they were waiting for F to contact them but then also said that they would want to see P in their own home. I also highlight my considerations regarding this matter as set out above.

<u>Allegations</u>

Father's allegations

114. Allegation 1: Failure to copy F into all correspondence with professionals **Found**

As a matter of fact I can see that F was not copied into these emails, it is concerning as the reason for the emails is regarding P's education and wellbeing. M says on one hand that she is seeking to co-parent with F but these actions undermine her assertions. I accept these are not the most significant of breaches and there are a limited number.

115. Allegation 5. Allowing P to order items online from M's accounts **Not Found**

While P did attempt to order items from M's account, and it appears as if P was successful on 2 occasions this doesn't mean that M "allowed" it. P is a teenager, who has been described by a number of professionals as headstrong and who struggles to adhere to boundaries that have been put in place for her. While M should have changed her password and have been more proactive in checking her account, she had a significant number of stressful matters occupying her time. It would be incorrect to interpret M's failure to prevent P from ordering items as M giving her permission or allowing P to order from her account.

116. Allegation 6. M must not discuss these proceedings, therapy or any assessments with P **Found**

It is clear from the contact notes that M discusses a number of matters with P which she should not do. Often it is M that raises these topics of conversation and she continues them after P has made it clear that she doesn't wish for the conversation to continue. Not only is this in breach of the order but, more concerningly, it places P back into the conflict and M is not listening to P when she says that she doesn't wish to discuss matters.

Under the Heading of M NOT ACCEPTING THE FINDINGS AND ONGOING BEHAVIOUR

117. M remains implacably hostile towards F and as a result of M focusing on this hostility and losing sight of P's wellbeing, P has suffered emotional harm. Further, this implacable hostility belies and is frequently the cause of the high conflict between the parents' **Found**

It was apparent throughout M's oral and written evidence that the blame for all issues is laid at F's door. There were a very limited number of paragraphs in her written statement which were not highly critical of F. I have set out about how M's approach is and will continue to have an impact on P. I have only seen one email from F which is antagonistic towards M and I have read a number which try to be conciliatory despite her aggressive and accusatory tone. While I accept M wants to co-parent with F and at times she has reached out to do so, at the moment her hostility is preventing that from progressing to an ability to make it happen.

118. P is caught in the centre her parents' high conflict, this combined with M's implacable hostility, her exposure to M's emotional outbursts, behaviour and parentification of P is causing P to emotionally split, self-harm and put herself at risk of sexual exploitation **Found (a and c but not b)**

The evidence of a and c can be clearly seen in the contact reports. Of the three examples given by F the most concerning to me is c which is in relation to M's conduct during contact. The contact notes that I have read show very poor-quality contact which is often used by M as an opportunity to gather evidence against F and by virtue of this it placed P in the middle of the conflict. P was put in the invidious position of having to report any negative experiences with F and other professionals, in the knowledge they would be used against them and attributed to her. There were occasions where almost the entire session was taken up with this reporting, with M taking notes. M still does not acknowledge the harm this has caused P, instead she sought to justify her actions.

119. It is clear that M has not progressed since the fact-finding hearing in February 2023. M continues not to show any real/genuine insight into the court's and professionals' concerns about her, and neither has she been able to accept any criticism from the court/professionals. When M perceived herself as being criticised, she seeks to take on the role of victim and attempts to deflect the blame on to others **Found in part**

M has made progress since the February 2023 fact-finding hearing, this has been noted by Dr W and myself. She is calmer, more controlled and less emotional. It is important that is recognised as a considerable achievement, not in the least because

the proceedings were ongoing, P had been removed from M's care and M became unemployed. However, M has not progressed her insight into the concerns surrounding P or herself and she does not accept criticism of herself, including that within the findings I made, unless they also criticise F. I have set out that M's statement is clearly written to depict her as a victim and in doing so she places all of the blame on F.

120. The mother 'M' does not accept the findings made by the court on 3.3.2023 and maintains the allegations which she made against the father 'F' which were not found by the court. M believes the court to be 'biased' against her and continues to expose P to her harmful behaviours **Found in part**

M does accept a limited number of the findings as set out above. Her clear evidence in her statement and evidence is that she believes the court to be biased against her and maintains her previous allegations.

121. M has continued to deflect the blame onto others, including F, professionals working with or assessing P, the court, ~~P herself and/or P's boyfriend~~. **Found (with the exception of the strike through part)**

I have not had any evidence that M continues to blame P or her boyfriend. However M's evidence both in her statement and oral clearly seeks to deflect the blame on to others.

122. M has continued to demonstrate 'disguised compliance', and has failed to work openly, honestly and in good faith with professionals, including (but not limited to) Trish Barry-Relph 'TBR', Dr Willemsen, the Local Authority 'LA', P's school and the NYAS caseworker. … M's disguised compliance is only present when M is seeking to recruit professionals to her side. **Not Found**

While M has not always behaved in a manner which the court would hope and expect, none of the allegations since the previous fact-finding/final hearing can be considered disguised compliance. M has not been recruiting professionals to her side, just because she has expressed her displeasure at a course of action or a situation that does not amount to disguised compliance.

123. M has continued to try to 'recruit' professionals and share information and/or gather evidence from them to support her case. When it is clear that objective of recruiting a professional has not been achieved, M's entire approach changes. Once M became aware of professionals' recommendations not aligning with her own views/opinions, she exhibits hostile behaviour and at times has refused to work with them or makes complaints about them **Not Found**

I have not seen any evidence of M trying to recruit professionals since the previous hearing. While M continues to have a negative approach to some professionals, she is entitled to her personal opinion, despite this she continues to attend meetings and to raise issues with them.

124. M struggles to consider or view any situation from any other person's perspective, this includes P. To support her distorted view M cherry picks evidence which she claims supports her, however this is often taken out of context. **Found**

As I have set out in my analysis above, M's approach to this matter is solely from her perspective and she continues to misinterpret evidence to fit her narrative. A clear example of this is M's suggestion that P should board at her current school instead of living with either parent.

125. M believes that her parenting of P is superior to that of F and continues to engage in abusive, critical and non-child focused communication with F. At times, she has used messages in order to fabricate false versions of events and, at other times, she will not respond to F for prolonged periods of time **Found**

While I do make this finding, the majority of it is a repetition of some of those above and therefore should not be counted twice. The only element which is not encompassed by earlier findings is that M believes her parenting of P is superior to that of F. M's approach to this can clearly be seen in her written statement.

126. M continues to have an intractable opposition and is implacably hostile to P having a full and meaningful relationship with F. M has demonstrated alienating behaviours **Found**

The first sentence is a repetition of the allegations above, so I will not repeat here. The second sentence, I consider that M's evidence gathering against F during contact constitutes alienating behaviours.

127. M continues to involve P in adult conflict, discussing adult issues with her **Found**

As I have already set out above M's actions in contact, such as discussing adult issues, clearly place P in the centre of the adult conflict.

128. At best M treats P as a generic child with no consideration for her own individual needs and experience. At worst she is using P to further her own agenda with no understanding of the impact on her **Found**

As I have already set out above M's actions in contact, such as discussing allegations against F, how P feels about TBR and asking P to make a subject access request are clearly M using P to further her own agenda. I believe that M would not harm P on purpose but she cannot see the negative impact this is having on P.

129. P is/is close to being beyond the parental control of M and if she remains in the centre of her parents' conflict it is highly likely she will be become beyond the control of both parents which shall have life-long consequences for her**. Not Found**

While I accept the ongoing animosity and court process are continuing to have an impact on P, I am no longer concerned that she will become beyond the parental control of F as long as she remains in his care. I have not received any new evidence since the previous hearing of P being beyond parental control. While she remains on a CPP and there have been a small number of incidents between her and F, he has managed these well and is working well with the LA and TBR regarding a safety plan. This is entirely to F's and P's credit that they are putting in the effort to work through these difficulties.

130. P has suffered significant emotional harm as a result of M's behaviour. The evidence demonstrates that M is wholly unable to demonstrate insight into her behaviour and how it impacts on P, as a result M sees no need to change. Unless P lives with F, she will continue to be prevented by M from having a normal relationship with him and will continue to suffer significant harm **Found**

This is an extension of some of the findings above. M continues to be unable to demonstrate insight into her own behaviour and how this impacts P (as seen by the contact notes). M didn't give any evidence about how she needed to change or what she needed to do to support P. These findings combined with the evidence of all the professionals makes it clear to me that P needs to live with F, and that M's influence needs to be limited while P is undertaking therapy and re-establishing her relationship with F. If this doesn't occur then M will continue to influence P's relationship with F which will continue the harm P is suffering.

Mother's Allegations

131. F has physically assaulted/ physically chastised P – he is on occasion unable to control and manage himself with P, and/or appropriately manage P. **Found**

F has accepted this allegation and there is substantial evidence regarding the incidents and F actions afterwards. As I set out twice above, I am concerned about the weight M attaches to these allegations and the somewhat hypocritical nature with which she pursues them considering her own assault/physical chastisement of P and the manner in which she dealt with P telling professionals about what M did to her.

132. F has not updated M in regard to these incidents at A above and kept her properly informed of all matters, including the safety plan of January 2024. Rather than inform M of events over the weekend of 22 June he drove to her house to sit in his car there. **Found in Part**

It is accepted that F did not update M regarding the incidents. He spoke to the professionals and presumed they would inform M. I can understand his reluctance to inform her himself given the nature of the emails that were sent after she found out and the generally poor level of communication between then at that time. I did not hear any evidence about F sitting outside M's home in his car, if that occurred, why etc. Therefore, I do not feel able to make any findings about this element of the allegation.

133. F continues to pursue an accusatory, exaggerated belligerent & inflammatory case **Not Found**

When considering this allegation I look at F's allegations above and note that while I have not made all of the findings he has sought I have made a significant number of them. This is a clear sign that he case is not exaggerating or belligerent. I accept that M feels F is being inflammatory as his statements and evidence are clearly as source of distress for her, but I compare the tone of F's statement to the tone of her statement and consider M's is far more accusatory and inflammatory. While F has spent a significant sum on the legal costs in this matter, he has not made a costs application against her and it is not for me to police what an individual spends on their case, what I do note is that both parties have had proper cases to put at all three of the disputed hearings and F has been successful in the majority of his representations and the findings he has sought. This cannot be considered a disproportionate approach to the litigation.

I will deal with F's applications separately.

134. <u>F shows limited insight as to how his actions impact P and M</u> **Not Found**

www. F curtailing P's contact with M – While at points F has been overly cautious with regards to contact it has been largely in response to the way M has acted during contact which has made it such poor quality. When I have had to make determinations about location or frequency/duration of contact at interim hearings it has been a difficult balance between trying to protect P from the harm that is being caused by the current spending time arrangements with M and allowing her to have the most normalised relationship possible give P's age and wishes and feelings. Regarding P's birthday contact M did not mention that it was the contact supervisor who reduced the duration of the contact due to her own family commitments, instead seeking to place all of the blame of F. As a result of this last minute change of plans F was not able to be home when P arrived however returned shortly thereafter. It is a theme of M's case that accusations are made against F but once evidence is considered there are other extenuating circumstances that are often beyond F's control.

xxx. F not sufficiently attuned to P given her age and development – It is accepted by F that there are significant restrictions on P's phone, however these have been put in place in conjunction with the LA and as a result of the CPP. Were P to be returned to M's care the expectation would be that she would also implement those same rules with P. It is exceptionally concerning, given P's history, that M instead of understanding these rules seeks to blame F for them. There is no evidence that F wants to "*keep her (P) locked up and away from boys and age appropriate/healthy relationships*" P attends a co-ed school, and she has friends of both sexes; however a degree of caution is justified given her history. None of the professionals have concerns regarding F's boundaries for P or that he has been calling her inappropriate names, which F explained in the context of a discussion with P and M has no first-hand knowledge of. Teenagers are known to be untruthful at times and therefore it is important to recognise that what they say may be exaggeration or incorrect, P has acknowledged that she does this or that she can be "dramatic" in the moment but upon reflection what she is saying is not the truth either of what has occurred or how she feels ((v) and (iv) as I have taken them out of turn). Finally, F does not accept that he was filming P, instead he was pretending to, to calm her down and stop the situation escalating. While that is not the ideal parenting technique to deal with the situation both F and P are learning how to work with each other. By de-escalating the situation in the manner F did it effectively protected hm and safeguarded P, I would not encourage the continued use of this method but it is the reason therapy between F and P needs to continue.

yyy. Many children attend religious/cultural schools when they do not want to. Getting a child to do something they do not want to or do not enjoy is a part of parenting. Although this has to be balanced with a recognition that P is growing older and at some stage there needs to be discussion about if she should continue, this discussion to involve P and her view to be taken into consideration. The same approach needs to be taken to clothes and make up, there are occasions where certain items or too much make-up is inappropriate

and it is important that children are taught this by their parents, however as P grows this needs to be determined on a discussion basis, although that may already be the way in which F is parenting P and this will be assisted by the therapy. Finally, given P's history and the situation at school where P locked herself in a classroom with a boy and another student, F is correct to be cautious about school trips, who is going and the level of supervision that will be required.

135. F continues to expose P to inappropriate matters/ the conflict he pursues with M,

Found in Part

It is clear that in P is aware of the conflict between F and M from F and as a result of being in his home. Whether this is because she has overheard discussions between F and other adults or as a result of those conversations being had with P directly I cannot determine. F has also accepted that he should be more positive about M within the home and this is something that can and should be worked on. I do not consider that F sending a single email from the wrong address was anything other than an accident, it was not a full email (only containing the salutation at the beginning) and was not signed off from M. There is nothing, other than M's interpretation, to suggest there was malicious intent. Finally, far from being concerned that F has misstated or exaggerated the case around sexual exploitation my much greater concern is that M does not see the dangers of this or the behaviours by P which are risk taking and could lead to further harm. M is so busy trying to denigrate F that she has entirely lost sight of the real and significant harm that P has suffered and continues to be at risk of suffering, with one element of this being child sexual exploitation.

Welfare Checklist and Plans

136. I have already thoroughly analysed the evidence and made a number of findings (as set out above) the below analysis of the welfare checklist will not repeat either of these and should be considered in conjunction. There are a number of matters that I need to consider, these are;

a. M's Plan – P to board at her current school and spend alternate weekends with each parent.

b. Live with M or 50/50 – this is the answer most often given by P when professionals are trying to ascertain her wishes and feelings. Therefore, although this is no-longer any parties first choice, given P's age and the duration of time which she has maintained this as an option she would like the court to consider, it will be given full consideration.

c. F's plan – P to live with F, to have contact with M working towards unsupervised and an increase in time.

d. The PSO, SIO and Recovery Order – if these should remain in force and if so to what extent and duration in respect of these orders

137. I will not consider contact as part of this judgment. I sent the parties a long email shortly after the hearing dealing with a number of interim matters (prior to sending out this judgment and there being a short return date). Part of that email was directions for contact over the summer to allow P to enjoy time with M, to ensure supervision was better managed and to give M the opportunity to demonstrate positive contact with P so that a longer term plan for frequency and duration of contact could be considered. I will consider submissions regarding contact at the return hearing date and make a determination at that stage.

138. Before I go through the Welfare Checklist in relation to the possible plans it needs to be highlighted again that this case is, as Dr Willemsen put it, "*much, much more complex"* than simple animosity or parental alienation. P continues to be on a CPP and is considered to be at risk of CSE. The experts' evidence is that the risk is as a result of the emotional harm from the animosity in the parental relationship, and that animosity is underpinned by M's implacable hostility to F. P is particularly vulnerable due to her emotional immaturity, fragility and risk-taking behaviours which are a result of not feeling heard, being put at the centre of the parents conflict and having a spoilt and split image of F. There continues to be concerns about M's permissive parenting and her parentification of P and sadly the transfer of residence has not been as successful as originally hoped due to M not undertaking the therapy

required, not apologising to P and continuing to undermine F and the professionals to P. I previously made a finding that if something doesn't materially change for P then the implications of continuing to be in her current state of emotional turmoil could be life long and affect her future relationships not just with her parents but with the wider world. While living with F has mitigated this to some extent the true work cannot take place while M continues to lack insight into the issues, her own behaviours, and places blame on all those around P.

Welfare Checklist

The ascertainable wishes and feelings of the child

139. I highlight again that listening to a person is distinctly different to agreeing with them. I have taken considerable time to listen to P including taking the unusual step of having a position statement prepared on her behalf despite her not being capable of being separately represented. I consider it is a mark of how much P does not want to be drawn into these proceedings that she did not respond to Ms Singleton's email containing the positions statement and therefore it has not been formally approved.

140. I have dealt with the detailed and substantial evidence on this matter in length throughout this judgment as it is an area of considerable contention and deserves proper consideration given P's age, I won't repeat it all here. I accept that the wishes and feelings P states with the most regularity is that she would wish for a 50/50 arrangement. However, this ultimately seems to come from a place of wanting to remove the restrictions on her and her belief that M would do this. P does not seem to understand that a considerable portion of those restrictions are as a result of the CPP and would have to be enforced in either parent's home, although I am not convinced M would be willing and able to enforce them. It is the professionals' view that P is not mature enough to understand the reasons for these restrictions and this is something I agree with. I have determined that P isn't competent to instruct her own representation in this matter due to her lack of maturity and because she continues to be in the centre of her parents' conflict, meaning it is impossible to form her own view and opinion. What is exceptionally noteworthy is that while P says she wants to

live with M or have a 50/50 division all other discussions she has with professionals about practicalities or approaches are around remaining with F, without actually acknowledging it. This shows how conflicted P regarding what she wants and what she considers she needs.

141. I accept the professionals' evidence both written and oral, that P's wishes and feelings should be taken into consideration but they should not be determinative. Further, I continue to be of the view that P wishes to have a good relationship with both of her parents but she does not know what is required to make this happen and it is concerning that she feels the need to live with M in order to fix her. It is a mark of her emotional immaturity and internal conflict that she cannot understand the position she is in.

142. Boarding school – P has never mentioned that this is an option she would like, other than for a week in specific circumstances.

143. Lives with M or 50/50 – P has consistently said these are the two options she would like the court to consider, however her view is not determinative and the reasoning is based on her dislike for boundaries as set out above.

144. Lives with F – P has stated that she doesn't like this option however also makes plans for it to continue and clearly has a positive relationship with F the majority of the time. Her stated wishes and feelings are not commensurate with the evidence of that positive relationship and is one of the reasons I cannot give them significant weight.

145. Ancillary orders – P has not been asked specifically about these additional orders however, given her dislike of boundaries and wish to have more freedom both regarding friends and the time she spends with M, it is fair to presume that she would like all of these to be removed. I anticipate that she cannot appreciate they are there to protect her and remove her from the parents' conflict in the same way she cannot appreciate the need for the CPP rules which are currently in place.

Her physical, emotional and educational needs

146. P's physical needs continue to be met to a high standard by both of her parents in terms of clothing, housing, food etc. However, there are significant and substantiated concerns about M's lack of insight and therefore inability to keep P safe from physical harm as a result of lack of boundaries and emotional harm as a result of continuing to be placed in the centre of the parents' conflict.

147. While there have been genuine concerns raised about F's ability to meet of P's needs as a result of the accepted incidents these need to be seen in the context of the situation surrounding F and P at that time, most specifically P's response to F taking the steps required to put in the boundaries P requires to keep her safe from other forms of harm. The mitigation for these incidents is F's immediate honesty about them, his continued work with the LA, acceptance of support both the safety plan and therapeutic, and his unreserved apology to P for his behaviour. This court does not solely judge people on the mistakes they have made but instead places more weight on the attempts to repair those mistakes and the likelihood of those attempts being successful.

148. P's emotional needs have been greatly impacted by the high conflict between the parents, being at the centre of that conflict, M's implacable hostility towards F, M's permissive parenting, M's parentification of P and the fact this has managed to continue despite contact being supervised. P clearly requires therapy to support her in working through these issues. Boarding school would not remove P from any of these difficulties, she would still be aware of them and would continue to be exposed to them on weekends and during the school holidays. Plus she would have to work to manage the impact of that while away from family and parental support, which is likely to make her feel more isolated and deepen the "*emotional deprivation*" P has experienced in the care of M (as set out by Dr W). Were I to order P to live with M or 50/50 division all of these concerns would continue and P would continue to experience emotional harm, the long term impact of that was set out by both experts. By living with F it would reduce the elements that are causing P emotional harm especially if contact is managed in a way to allow P time to undertake her therapeutic work, and settle, into her new routine. It would allow an opportunity for F to continue his progress and for M to gain understanding and insight. This is the only

approach which allows time and space for P to undertake therapy and change which will cease her inner turmoil. However, this approach is going to require time to embed and it has been shown that M uses every opportunity to reassert her narrative with P and draw P back into the conflict.

149. The ancillary orders act as a means of preventing M from drawing P further into the disputes and it is clear to me that at the current time M is informing P and the courts that she can make her own decisions when she is 16, which is less than a year away. The therapeutic work is going to require more time to be effective because of M's approach and both of these points need to be factored into any decision that I make.

150. Both parents are equally capable of meeting P's educational needs. While M has been more proactive in finding and funding private education and tutors for P there have been no concerns raised about F's commitment to and support of P's education. The current situation is impacting on P's education although the reports from the school have been more positive since P has lived with F and the G feels this is because of the stability F offers. Also I note that since being in F's care P has begun to engage in extra curricular activities, which are also significant in promoting P to be a well-rounded individual. Boarding at the school is not necessary to promote P's educational needs.

The likely effect of any change in circumstances

151. The plan which would affect the most amount of change for P is for her to attend boarding school. This is an unknown and untested plan which all of the experts and F oppose. The school were able to provide us with limited information as they had yet to confirm the situation for the next academic year, however they confirmed there was only 4 boarders currently registered. To use this as a testing out phase during P's final year of GCSE's, even without taking into consideration her vulnerabilities and individual needs would be nothing short of reckless.

152. If P were to live with M or have a 50/50 arrangement my concerns about the long-term impact of P remaining in the current conflict, (a set out fully in my previous judgment) would continue to apply. P has been able to make some tentative steps

forward while living with F despite the continued interference from M. The professionals have all noted a positive improvement in P, however there is still a significant way to go.

153. If I order for P to live with F that is a continuation of the current situation as it has been since November 2023. In order for P to reach her full potential she requires positive attuned parenting from someone who is going to listen to her but not always agree with her. Who can acknowledge when they are wrong and apologise for their mistakes. At the moment F is the only parent that can provide P with this and he has been doing so for almost a year. At the current time F is the parent that is providing a safe, calm space for P away from the behaviour and influence of M. He is the parent that is providing the boundaries which the professionals state she requires. Without F, there would be no-one in her daily life who has insight into, and appreciates, the risks that she is at other than school. P would be unlikely to receive therapy which contains the narrative she requires and therefore her long term wellbeing will be compromised, and she would be likely to continue to participate in risky behaviours such as self-harm and continue to be sexually exploited which impact on her into adulthood.

154. In order for P to be protected from harm while living with F the ancillary orders need to remain in place as they are effectively keeping M in check, especially the non-molestation order and the recovery order. P has absconded once since the conclusion of evidence in this matter and the recovery order worked exactly as it was supposed to. The police attended, they took time to explain everything to P and P was returned to F. It is important that both M and P are aware that the orders are enforceable and that it is not within their choice to not adhere to them, otherwise the making of the orders would be entirely without purpose.

155. In this area I consider that it would have a significant detrimental impact on P were the situation to change back to her being able to make the decisions and not have any boundaries or rules, especially if one of the decisions P makes were to return to M's care. All of the experts are clear that P needs to complete her therapeutic work and understand her own narrative prior to her being able to make those sorts of decision.

This work is taking longer than anticipated because of M's lack of engagement and undermining of F and the professionals. As such it is clear from the evidence that the final order must be enforceable beyond P's 16th birthday otherwise it would be a significant change for her at a time when she is unable to exercise her discretion as required and would not only undo any work done but is likely to interfere with P engaging fully in the work as she sees it as a time limited situation.

Her age, sex, background and any characteristics which the court considers relevant

156. P is a 15-year-old female, while she is academically capable, she is emotionally immature, vulnerable and at risk of emotional harm and sexual exploitation, she has spent the majority of her life caught in the centre of parental conflict and remains there despite F and the professionals significant efforts to prevent this from occurring. All of these concerns have been set out above. I have found that P requires a period of stability and certainty, especially as her GCSE exams are less than a year away, P needs to have the circumstances responsible for the inner turmoil she continues to experience to be mitigated as much as possible and to live in an environment where she is seen and heard but boundaries are put in place to support her and keep her safe. Therapeutic input is required but it must be the right therapy, which is informed by the findings of the court and which helps her make sense of her parents actions and the court decisions. This cannot be a generic therapist and needs to be someone with specialist training and knowledge of these proceedings. While that is ongoing she needs boundaried parenting which seeks to protect her from her own poor decision making.

157. Boarding school in not going to provide any of those things which P requires and it likely to further her isolation and lack of trust in her parents as people who can meet her needs.

158. The evidence is M continues to be unable to support that approach as she is in denial about the risks and extent of P's vulnerabilities. M lacks insight into herself and her behaviours, P and the conflict which has caused this situation and therefore cannot assist P in gaining this insight. M seems determined to place all blame on F and to get P to do this too. Were P to live with M or spend regular unsupervised time with

her at this stage it would limit the progress of therapeutic work and M's approach of "each parent's rules in each parent's home" could place P at very serious and significant risk of harm. M is oblivious to the harm she is currently causing P and therefore she cannot monitor her own behaviour to ensure the harm doesn't occur.

159. All of the professionals agree that F is the only parent who can provide an environment for P which she requires. While it is not the perfect solution as it will cause P distress and is not what she wants. They do have a positive relationship most of the time and F continues to work on his difficulties, it is the only option that addresses P's characteristics and gives her the best chance at an optimistic future and positive relationship with both parents. All of the professionals are also in agreement that the ancillary orders are required to ensure the orders are adhered to and to protect P. Also that due to her immaturity and vulnerability the orders need to be extended beyond P's 16th birthday to allow her the time to engage with therapy and mature before she is given the weight of being able to make adult decisions.

Any harm which she has suffered or is at risk of suffering

160. I have set out at length the harm P has suffered and the harm she is at risk of suffering were I to order her to attend boarding school, live with M or have 50/50 shared care. I have also found there continues to be a need for long term change in P's situation to protect her from these risks, as despite supervision harm is still being caused to P. I have also set out that she will feel unheard by being ordered to live with F and for the ancillary orders to be made, but I balance this against the protection she would have from the harm that is currently being caused which will follow her into adulthood and the need for her to undertake the therapeutic work and gain maturity and understanding prior to her being able to make life altering decisions.

How capable each of the parents is of meeting her needs

161. Sadly, M continues to be incapable of meeting P's needs beyond the educational and basic physical care needs. This is demonstrated by her eleventh hour suggestion of boarding school. I have given a full and detailed analysis of the evidence as it relates to M's understanding, insight into and ability meet P's emotional needs. M is unable

to parent P as she requires. Despite being given time and two judgments, M cannot acknowledge her faults, let alone start gaining insight into them or how they have impacted P, until she can do this she will continue to be incapable of offering the standard of parenting P requires given her lived experiences, vulnerability and exposure to conflict. M continues to cause conflict in P to the extent that despite contact being supervised P is still drawn into it on a regular basis and the therapeutic progress has been hampered.

162. F continues to not be a perfect parent but he also continues to try. He is working with all of the professionals, he is taking advice, listening to opinions and making himself vulnerable, he acknowledges when he has acted inappropriately, has taken reparative steps and apologised to P. None of the professionals have any concern about F's ability to meet any of P's needs. The transition of P from M to F's care was not as traumatic as had been anticipated and their relationship has been building. It is my determination that living with F continues to be the only possible options for P to have a positive relationship with both of her parents as she will have understanding and the ability to attend therapy to work through her inner turmoil so that she may have the positive future she deserves. The experts and G are in agreement that P living with F is the only way for her to have all of her needs met, while keeping P safe from the risks of harm. However, to ensure this is maintained, is not undermined and the stability it available for the duration P requires it ancillary orders are required.

The range of powers available to the court under this Act in the proceedings in question

163. As a result of all the evidence, analysis and findings, I make the following orders;

a. P shall live with F;

b. The PSO and SIO shall remain in force;

c. The Non-Molestation Order shall remain in force;

d. The Recovery Order shall remain in force;

e. There shall be a 91(14) order made against both parents, for the sake of parity and because P has been heavily involved in acrimonious proceedings for a

protracted period of time, she needs to be assured that there will be no further court proceedings unless they are completely necessary;

f. This judgment shall be disclosed to the professionals in the case and a narrative based on this judgment shall be prepared for P

g. P shall participate in therapy based on the narrative that has been provided, this can include either or both of the parents depending on the therapist's recommendation

h. If M choses to undertake the therapy as set out above then this judgment must be disclosed to the therapist in addition to the previous judgment

i. I will consider contact at the next short review hearing in light of updating contact notes and submissions made.

164. Paragraphs 174(a) to 174(e) shall be enforceable until P turns 18. I do consider this case is "exceptional" as per the definitions raised in the law above and I find that is it exceptional for the following reasons;

zzz. P is vulnerable, especially to the conflict between her parents, the orders remaining enforceable for the extended duration of time will protect her from being drawn into that conflict unnecessarily;

aaaa. P requires therapy around her life story narrative, this has been hampered by M to date and it is the experts' opinion that this cannot be effectively undertaken while M is undermining the narrative. As such this is going to take additional time to achieve;

bbbb. P is emotionally immature and this affects her to the extent that she is not considered capable of instructing her own representation. By extension this means she should not be making decisions to cease following the orders when she is 16 (less than a year away) as she is not ready to make such decisions;

cccc. M is currently undermining the process by telling P that she can make decisions when she is 16, this is putting P into the centre of the conflict between the parents and this is causing P harm;

dddd. P turns 16 during the time she will be sitting her GCSE exams and this year shall be building up to that time. P should not have the pressure regarding these orders over that time frame and instead requires stability and certainty; and

eeee. P's wishes and feelings and her responses are around the boundaries that have been put in place by F as part of the CPP, P is not making a decision about her parents but in response to the boundaries which she opposes. The boundaries are to protect her from the risks of her own risk taking behaviours and possible child sexual exploitation to remove them (by virtue of the order being unenforceable) is likely to cause P significant harm.

165. Costs of contact – the leading case is cited above. Originally the costs of contact were ordered to be divided equally between the parents as I had made findings against both of them and I felt it was important that P see F supporting her time with M financially. It was my opinion that while the reunification plan was being implemented this was an important message to give P. However, this is no longer an interim situation and as such in my previous detailed email I reduced F's contributions to a specific maximum amount. This was in part due to my understanding that the ISW was expensive and because matters have moved on such that M was requesting a high level of contact and I could not see why the costs of that should be passed on to F, even in part. As I have set out above I have to make a determination as to how contact between M and P should continue at this stage as I wish to hear submissions and consider the updated position. Therefore this is a determination in principle. If I were to order supervision of contact moving forwards the costs of this should be funded solely by M as the need for long term supervision of contact beyond a final order is due to her not undertaking the work required. I have made a number of significant findings against M for the purposes of *Griffiths* the important one is the continued implacable hostility towards F. I do not consider there are exceptional circumstances in this matter which mean that F should contribute towards the costs of contact in light of the findings and history in this case.

166. The decision to publish judgments is one for the Judge alone. I note that in M's statement she is neutral, that F and Dr W support the judgment being reported and the Transparency Project and President's Guidance support the reporting of judgments as long as they are properly anonymised. I note concerns about the impact on P however she has been provided with a narrative about the last judgment, my detailed email and will be provided with a further narrative about this judgment. Also given the conflict between the parents, it may be important when she is older for her to be able to access the impartial judgments as means of ascertaining the truth of what occurred and the findings made during the course of the hearings. As such I will publish this judgment and the previous judgment, suitably anonymised.

167. Costs of reports – M should pay 50% of the costs of all the experts reports in this matter. These experts were agreed initially and while I am aware that she no longer sees them as single joint experts this is because they have opinions and recommendations that she doesn't agree with. Not because they have in any way acted inappropriately. All of the reports have been of significant assistance.

168. Costs of F's therapy with P – M should not have to contribute to the costs of this therapy. It has not benefitted her and I cannot see that she should finance this.

169. I accept that further direction will be required to action the above orders.

District Judge Saunders

23rd September 2024